

56:8-136

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 16

NJSA: 56:8-136 (“Contractors Registration Act”)

BILL NO: A2052 (Substituted for S167)

SPONSOR(S): Cohen and others

DATE INTRODUCED: February 5, 2004

COMMITTEE: **ASSEMBLY:** Regulated Professions

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 11, 2004

SENATE: March 29, 2004

DATE OF APPROVAL: May 13, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

A2052

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

S167

[SPONSOR'S STATEMENT:](#) (Begins on page 8 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

Identical to fiscal estimate to A2052

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"Hammering it home; State beefs up contractor standards with registration law," 3-23-2004 The Times, pD1

"NJ home-improvement contractors must register," 9-17-2004 Philadelphia Inquirer,p

"Registration sneaking up on contractors," 9-17-2004 The Times, p.B10

P.L. 2004, CHAPTER 16, *approved May 13, 2004*
Assembly, No. 2052 (*Second Reprint*)

1 **AN ACT** concerning contractors engaged in home improvements and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the “Contractors’
8 Registration Act.”

9

10 2. As used in this act:

11 "Contractor" means a person engaged in the business of making or
12 selling home improvements and includes a corporation, partnership,
13 association and any other form of business organization or entity, and
14 its officers, representatives, agents and employees.

15 "Director" means the Director of the Division of Consumer Affairs
16 in the Department of Law and Public Safety.

17 "Division" means the Division of Consumer Affairs in the
18 Department of Law and Public Safety.

19 “Home improvement” means the remodeling, altering, renovating,
20 repairing, restoring, modernizing, moving, demolishing, or otherwise
21 improving or modifying of the whole or any part of any residential or
22 non-commercial property. Home improvement shall also include
23 insulation installation, and the conversion of existing commercial
24 structures into residential or non-commercial property.

25 “Home improvement contract” means ²[a] an oral or² written
26 agreement for the performance of a home improvement ²[costing
27 \$2,500 or more]² between a contractor and an owner, tenant or lessee,
28 of a residential or noncommercial property, and includes all
29 agreements under which the contractor is to perform labor or render
30 services for home improvements, or furnish materials in connection
31 therewith.

32 “Residential or non-commercial property” means any single or
33 multi-unit structure used in whole or in part as a place of residence,
34 and all structures appurtenant thereto, and any portion of the lot or
35 site on which the structure is situated which is devoted to the
36 residential use of the structure.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ARP committee amendments adopted February 9, 2004.

² Assembly floor amendments adopted February 23, 2004.

1 3. a. No person shall offer to perform, or engage, or attempt to
2 engage in the business of making or selling home improvements unless
3 registered with the Division of Consumer Affairs in accordance with
4 the provisions of this act.

5 b. Every contractor shall annually register with the director.
6 Application for registration shall be on a form provided by the division
7 and shall be accompanied by a reasonable fee, set by the director in an
8 amount sufficient to defray the division's expenses incurred in
9 administering and enforcing this act.

10 c. Every contractor required to register under this act shall file an
11 amended registration within 20 days after any change in the
12 information required to be included thereon. No fee shall be required
13 for the filing of an amendment.

14
15 4. Except for persons exempted pursuant to section 5 of this act,
16 any person who advertises in print or puts out any sign or card or
17 other device after the effective date of this act which would indicate
18 to the public that he is a contractor in New Jersey, or who causes his
19 name or business name to be included in a classified advertisement or
20 directory in New Jersey after the effective date of this act under a
21 classification for home improvements covered by this act, is subject to
22 the provisions of this act. This section shall not be construed to apply
23 to simple ²residential² alphabetical listings in standard telephone
24 directories.

25
26 5. The provisions of this act shall not apply to:

27 a. Any person required to register pursuant to "The New Home
28 Warranty and Builders' Registration Act," P.L.1977, c.467
29 (C.46:3B-1 et seq.);

30 b. Any person performing a home improvement upon a residential
31 or non-commercial property he owns, or that is owned by a member
32 of his family, a bona fide charity, or other non-profit organization;

33 c. Any person regulated by the State as an architect, professional
34 engineer, landscape architect, land surveyor, electrical contractor,
35 master plumber, or any other person in any other related profession
36 requiring registration, certification, or licensure by the State, who is
37 acting within the scope of practice of his profession;

38 d. Any person who is employed by a community association or
39 cooperative corporation;

40 e. Any public utility as defined under R.S.48:2-13;

41 f. Any person licensed under the provisions of section 16 of
42 P.L.1960, c.41 (C.17:16C-77); and

43 g. Any ¹[person employed by a]¹ home improvement ¹[store]
44 retailer¹ with a net worth of more than \$50,000,000 ¹, or employee of
45 that retailer¹.

1 6. In addition to any other procedure, condition or information
2 required by this act:

3 a. Every applicant shall file a disclosure statement with the director
4 stating whether the applicant has been convicted of any crime, which
5 for the purposes of this act shall mean a violation of any of the
6 following provisions of the "New Jersey Code of Criminal Justice,"
7 Title 2C of the New Jersey Statutes, or the equivalent under the laws
8 of any other jurisdiction:

9 (1) Any crime of the first degree;

10 (2) Any crime which is a second or third degree crime and is a
11 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
12 or

13 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
14 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
15 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-
16 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through
17 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-
18 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes,
19 N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through
20 2C:37-4.

21 b. The director may refuse to issue or may suspend or revoke any
22 registration issued by him upon proof that the applicant or holder of
23 the registration:

24 (1) Has obtained a registration through fraud, deception or
25 misrepresentation;

26 (2) Has engaged in the use or employment of dishonesty, fraud,
27 deception, misrepresentation, false promise or false pretense;

28 (3) Has engaged in gross negligence, gross malpractice or gross
29 incompetence;

30 (4) Has engaged in repeated acts of negligence, malpractice or
31 incompetence;

32 (5) Has engaged in professional or occupational misconduct as may
33 be determined by the director;

34 (6) Has been convicted of any crime involving moral turpitude or
35 any crime relating adversely to the activity regulated by this act. For
36 the purpose of this subsection a plea of guilty, non vult, nolo
37 contendere or any other such disposition of alleged criminal activity
38 shall be deemed a conviction;

39 (7) Has had his authority to engage in the activity regulated by the
40 director revoked or suspended by any other state, agency or authority
41 for reasons consistent with this section;

42 (8) Has violated or failed to comply with the provisions of any act
43 or regulation administered by the director;

44 (9) Is incapable, for medical or any other good cause, of
45 discharging the functions of a licensee in a manner consistent with the
46 public's health, safety and welfare.

1 c. An applicant whose registration is denied, suspended, or
2 revoked pursuant to this section shall, upon a written request
3 transmitted to the director within 30 calendar days of that action, be
4 afforded an opportunity for a hearing in a manner provided for
5 contested cases pursuant to the "Administrative Procedure Act,"
6 P.L.1968, c.410 (C.52:14B-1 et seq.).

7 d. An applicant shall have the continuing duty to provide any
8 assistance or information requested by the director, and to cooperate
9 in any inquiry, investigation, or hearing conducted by the director.

10 e. If any of the information required to be included in the
11 disclosure statement changes, or if additional information should be
12 added after the filing of the statement, the applicant shall provide that
13 information to the director, in writing, within 30 calendar days of the
14 change or addition.

15 f. Notwithstanding the provisions of paragraph (6) of subsection
16 b. of this section, no individual shall be disqualified from registration
17 or shall have registration revoked on the basis of any conviction
18 disclosed if the individual has affirmatively demonstrated to the
19 director clear and convincing evidence of the individual's
20 rehabilitation. In determining whether an individual has affirmatively
21 demonstrated rehabilitation, the following factors shall be considered:

22 (1) The nature and responsibility of the position which the
23 convicted individual would hold;

24 (2) The nature and seriousness of the offense;

25 (3) The circumstances under which the offense occurred;

26 (4) The date of the offense;

27 (5) The age of the individual when the offense was committed;

28 (6) Whether the offense was an isolated or repeated incident;

29 (7) Any social conditions which may have contributed to the
30 offense; and

31 (8) Any evidence of rehabilitation, including good conduct in
32 prison or in the community, counseling or psychiatric treatment
33 received, acquisition of additional academic or vocational schooling,
34 successful participation in correctional work-release programs, or the
35 recommendation of persons who have had the individual under their
36 supervision.

37

38 7. a. Every registered contractor who is engaged in home
39 improvements shall secure, maintain and file with the director proof of
40 a certificate of commercial general liability insurance in a minimum
41 amount of \$500,000 per occurrence.

42 b. Every proof of a commercial general liability insurance policy
43 required to be filed with the director shall provide that cancellation or
44 nonrenewal of the policy shall not be effective unless and until at least
45 10 days' notice of intention to cancel or nonrenew has been received
46 in writing by the director.

1 8. a. The director may refuse to issue or renew, and may revoke,
2 any registration for failure to comply with, or violation of, the
3 provisions of this act or for any other good cause shown within the
4 meaning and purpose of this act. A refusal or revocation shall not be
5 made except upon reasonable notice to, and opportunity to be heard
6 by, the applicant or registrant.

7 b. The director, in lieu of revoking a registration, may suspend the
8 registration for a reasonable period of time, or assess a penalty in lieu
9 of suspension, or both, and may issue a new registration,
10 notwithstanding the revocation of a prior registration, if the applicant
11 is found to have become entitled to the new registration.

12
13 9. a. All registrants shall prominently display their registration
14 numbers within their places of business, in all ²[printed]²
15 advertisements distributed within this State, on business documents,
16 contracts and correspondence with consumers of home improvement
17 services in this State, and on all commercial vehicles registered in this
18 State and leased or owned by registrants and used by registrants for
19 the purpose of providing home improvements, except for vehicles
20 leased or rented to customers of registrants by a registrant or any
21 agent or representative thereof.

22 b. Any invoice, contract or correspondence given by a registrant
23 to a consumer shall prominently contain the toll-free telephone number
24 provided pursuant to section 14 of this act.

25
26 10. The provisions of this act shall apply to any person engaging
27 in any of the activities regulated by this act in this State, including
28 persons whose residence or principal place of business is located
29 outside of this State.

30
31 11. a. It is an unlawful practice and a violation of P.L.1960, c.39
32 (C.56:8-1 et seq.) to violate any provision of this act.

33 b. In addition to any other penalty provided by law, a person who
34 knowingly violates any of the provisions of this act is guilty of a crime
35 of the fourth degree.

36
37 12. a. This act shall supersede any municipal ordinance or
38 regulation that provides for the licensing or registration of contractors
39 or for the protection of homeowners by bonds or warranties required
40 to be provided by contractors, exclusive of those required by water,
41 sewer, utility, or land use ordinances or regulations.

42 b. No municipality shall issue a construction permit for any home
43 improvement to any contractor who is not registered pursuant to the
44 provisions of this act.

45
46 13. This act shall not deny to any municipality the power to

1 inspect a contractor's work or equipment, the work of a contractor
2 who performs improvements to commercial property, or the power to
3 regulate the standards and manners in which the contractor's work
4 shall be done.

5
6 14. a. The director shall establish and undertake a public
7 information campaign to educate and inform contractors and the
8 consumers of this State of the provisions of this act. The public
9 information campaign shall include, but not be limited to, the
10 preparation, printing and distribution of booklets, pamphlets or other
11 written pertinent information.

12 b. The director shall provide a toll-free telephone number for
13 consumers making inquiries regarding contractors.

14
15 15. Nothing in this act shall limit the application of P.L.1960, c.39
16 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in
17 regard to the registration or regulation of contractors.

18
19 16. a. Every home improvement contract ²for a purchase price in
20 excess of \$500², and all changes in the terms and conditions of the
21 contract, shall be in writing. The contract shall be signed by all
22 parties thereto, and shall clearly and accurately set forth in legible form
23 and in understandable language all terms and conditions of the
24 contract, including but not limited to:

25 (1) The legal name, business address, and registration number of
26 the contractor:

27 (2) A copy of the certificate of commercial general liability
28 insurance required of a contractor pursuant to section 7 of this act and
29 the telephone number of the insurance company issuing the certificate;
30 and

31 (3) The total price or other consideration to be paid by the owner,
32 including the finance charges.

33 b. A home improvement contract may be cancelled by a consumer
34 for any reason at any time before midnight of the third business day
35 after the consumer receives a copy of it. In order to cancel a contract
36 the consumer shall notify the contractor of the cancellation in writing,
37 by registered or certified mail, return receipt requested, or by personal
38 delivery, to the address specified in the contract. All moneys paid
39 pursuant to the cancelled contract shall be fully refunded within
40 30 days of receipt of the notice of cancellation. If the consumer has
41 executed any credit or loan agreement through the contractor to pay
42 all or part of the contract, the agreement or note shall be cancelled
43 without penalty to the consumer and written notice of that cancellation
44 shall be mailed to the consumer within 30 days of receipt of the notice
45 of cancellation. The contract shall contain a conspicuous notice
46 printed in at least 10-point bold-faced type as follows:

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"NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR
2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)

(Address of Contractor)

(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

17. The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

18. This act shall take effect on the 180th day following enactment.

Regulates contractors engaging in home improvements.

ASSEMBLY, No. 2052

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 5, 2004

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblymen Eagler and Stack

SYNOPSIS

Regulates contractors engaging in home improvements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/10/2004)

A2052 COHEN, IMPREVEDUTO

2

1 AN ACT concerning contractors engaged in home improvements and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. This act shall be known and may be cited as the “Contractors’
8 Registration Act.”

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10 2. As used in this act:

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12 selling home improvements and includes a corporation, partnership,
13 association and any other form of business organization or entity, and
14 its officers, representatives, agents and employees.

15 "Director" means the Director of the Division of Consumer Affairs
16 in the Department of Law and Public Safety.

17 "Division" means the Division of Consumer Affairs in the
18 Department of Law and Public Safety.

19 “Home improvement” means the remodeling, altering, renovating,
20 repairing, restoring, modernizing, moving, demolishing, or otherwise
21 improving or modifying of the whole or any part of any residential or
22 non-commercial property. Home improvement shall also include
23 insulation installation, and the conversion of existing commercial
24 structures into residential or non-commercial property.

25 “Home improvement contract” means a written agreement for the
26 performance of a home improvement costing \$2,500 or more between
27 a contractor and an owner, tenant or lessee, of a residential or
28 noncommercial property, and includes all agreements under which the
29 contractor is to perform labor or render services for home
30 improvements, or furnish materials in connection therewith.

31 “Residential or non-commercial property” means any single or
32 multi-unit structure used in whole or in part as a place of residence,
33 and all structures appurtenant thereto, and any portion of the lot or
34 site on which the structure is situated which is devoted to the
35 residential use of the structure.

36

37 3. a. No person shall offer to perform, or engage, or attempt to
38 engage in the business of making or selling home improvements unless
39 registered with the Division of Consumer Affairs in accordance with
40 the provisions of this act.

41 b. Every contractor shall annually register with the director.
42 Application for registration shall be on a form provided by the division
43 and shall be accompanied by a reasonable fee, set by the director in an
44 amount sufficient to defray the division’s expenses incurred in
45 administering and enforcing this act.

1 c. Every contractor required to register under this act shall file an
2 amended registration within 20 days after any change in the
3 information required to be included thereon. No fee shall be required
4 for the filing of an amendment.

5
6 4. Except for persons exempted pursuant to section 5 of this act,
7 any person who advertises in print or puts out any sign or card or
8 other device after the effective date of this act which would indicate
9 to the public that he is a contractor in New Jersey, or who causes his
10 name or business name to be included in a classified advertisement or
11 directory in New Jersey after the effective date of this act under a
12 classification for home improvements covered by this act, is subject to
13 the provisions of this act. This section shall not be construed to apply
14 to simple alphabetical listings in standard telephone directories.

15
16 5. The provisions of this act shall not apply to:

17 a. Any person required to register pursuant to "The New Home
18 Warranty and Builders' Registration Act," P.L.1977, c.467
19 (C.46:3B-1 et seq.);

20 b. Any person performing a home improvement upon a residential
21 or non-commercial property he owns, or that is owned by a member
22 of his family, a bona fide charity, or other non-profit organization;

23 c. Any person regulated by the State as an architect, professional
24 engineer, landscape architect, land surveyor, electrical contractor,
25 master plumber, or any other person in any other related profession
26 requiring registration, certification, or licensure by the State, who is
27 acting within the scope of practice of his profession;

28 d. Any person who is employed by a community association or
29 cooperative corporation;

30 e. Any public utility as defined under R.S.48:2-13;

31 f. Any person licensed under the provisions of section 16 of
32 P.L.1960, c.41 (C.17:16C-77); and

33 g. Any person employed by a home improvement store with a net
34 worth of more than \$50,000,000.

35
36 6. In addition to any other procedure, condition or information
37 required by this act:

38 a. Every applicant shall file a disclosure statement with the director
39 stating whether the applicant has been convicted of any crime, which
40 for the purposes of this act shall mean a violation of any of the
41 following provisions of the "New Jersey Code of Criminal Justice,"
42 Title 2C of the New Jersey Statutes, or the equivalent under the laws
43 of any other jurisdiction:

44 (1) Any crime of the first degree;

45 (2) Any crime which is a second or third degree crime and is a
46 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;

1 or

2 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
3 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
4 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-
5 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through
6 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-
7 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes,
8 N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through
9 2C:37-4.

10 b. The director may refuse to issue or may suspend or revoke any
11 registration issued by him upon proof that the applicant or holder of
12 the registration:

13 (1) Has obtained a registration through fraud, deception or
14 misrepresentation;

15 (2) Has engaged in the use or employment of dishonesty, fraud,
16 deception, misrepresentation, false promise or false pretense;

17 (3) Has engaged in gross negligence, gross malpractice or gross
18 incompetence;

19 (4) Has engaged in repeated acts of negligence, malpractice or
20 incompetence;

21 (5) Has engaged in professional or occupational misconduct as may
22 be determined by the director;

23 (6) Has been convicted of any crime involving moral turpitude or
24 any crime relating adversely to the activity regulated by this act. For
25 the purpose of this subsection a plea of guilty, non vult, nolo
26 contendere or any other such disposition of alleged criminal activity
27 shall be deemed a conviction;

28 (7) Has had his authority to engage in the activity regulated by the
29 director revoked or suspended by any other state, agency or authority
30 for reasons consistent with this section;

31 (8) Has violated or failed to comply with the provisions of any act
32 or regulation administered by the director;

33 (9) Is incapable, for medical or any other good cause, of
34 discharging the functions of a licensee in a manner consistent with the
35 public's health, safety and welfare.

36 c. An applicant whose registration is denied, suspended, or
37 revoked pursuant to this section shall, upon a written request
38 transmitted to the director within 30 calendar days of that action, be
39 afforded an opportunity for a hearing in a manner provided for
40 contested cases pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.).

42 d. An applicant shall have the continuing duty to provide any
43 assistance or information requested by the director, and to cooperate
44 in any inquiry, investigation, or hearing conducted by the director.

45 e. If any of the information required to be included in the
46 disclosure statement changes, or if additional information should be

1 added after the filing of the statement, the applicant shall provide that
2 information to the director, in writing, within 30 calendar days of the
3 change or addition.

4 f. Notwithstanding the provisions of paragraph (6) of subsection
5 b. of this section, no individual shall be disqualified from registration
6 or shall have registration revoked on the basis of any conviction
7 disclosed if the individual has affirmatively demonstrated to the
8 director clear and convincing evidence of the individual's
9 rehabilitation. In determining whether an individual has affirmatively
10 demonstrated rehabilitation, the following factors shall be considered:

11 (1) The nature and responsibility of the position which the
12 convicted individual would hold;

13 (2) The nature and seriousness of the offense;

14 (3) The circumstances under which the offense occurred;

15 (4) The date of the offense;

16 (5) The age of the individual when the offense was committed;

17 (6) Whether the offense was an isolated or repeated incident;

18 (7) Any social conditions which may have contributed to the
19 offense; and

20 (8) Any evidence of rehabilitation, including good conduct in
21 prison or in the community, counseling or psychiatric treatment
22 received, acquisition of additional academic or vocational schooling,
23 successful participation in correctional work-release programs, or the
24 recommendation of persons who have had the individual under their
25 supervision.

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27 7. a. Every registered contractor who is engaged in home
28 improvements shall secure, maintain and file with the director proof of
29 a certificate of commercial general liability insurance in a minimum
30 amount of \$500,000 per occurrence.

31 b. Every proof of a commercial general liability insurance policy
32 required to be filed with the director shall provide that cancellation or
33 nonrenewal of the policy shall not be effective unless and until at least
34 10 days' notice of intention to cancel or nonrenew has been received
35 in writing by the director.

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37 8. a. The director may refuse to issue or renew, and may revoke,
38 any registration for failure to comply with, or violation of, the
39 provisions of this act or for any other good cause shown within the
40 meaning and purpose of this act. A refusal or revocation shall not be
41 made except upon reasonable notice to, and opportunity to be heard
42 by, the applicant or registrant.

43 b. The director, in lieu of revoking a registration, may suspend the
44 registration for a reasonable period of time, or assess a penalty in lieu
45 of suspension, or both, and may issue a new registration,
46 notwithstanding the revocation of a prior registration, if the applicant

1 is found to have become entitled to the new registration.

2

3 9. a. All registrants shall prominently display their registration
4 numbers within their places of business, in all printed advertisements
5 distributed within this State, on business documents, contracts and
6 correspondence with consumers of home improvement services in this
7 State, and on all commercial vehicles registered in this State and
8 leased or owned by registrants and used by registrants for the purpose
9 of providing home improvements, except for vehicles leased or rented
10 to customers of registrants by a registrant or any agent or
11 representative thereof.

12 b. Any invoice, contract or correspondence given by a registrant
13 to a consumer shall prominently contain the toll-free telephone number
14 provided pursuant to section 14 of this act.

15

16 10. The provisions of this act shall apply to any person engaging
17 in any of the activities regulated by this act in this State, including
18 persons whose residence or principal place of business is located
19 outside of this State.

20

21 11. a. It is an unlawful practice and a violation of P.L.1960, c.39
22 (C.56:8-1 et seq.) to violate any provision of this act.

23 b. In addition to any other penalty provided by law, a person who
24 knowingly violates any of the provisions of this act is guilty of a crime
25 of the fourth degree.

26

27 12. a. This act shall supersede any municipal ordinance or
28 regulation that provides for the licensing or registration of contractors
29 or for the protection of homeowners by bonds or warranties required
30 to be provided by contractors, exclusive of those required by water,
31 sewer, utility, or land use ordinances or regulations.

32 b. No municipality shall issue a construction permit for any home
33 improvement to any contractor who is not registered pursuant to the
34 provisions of this act.

35

36 13. This act shall not deny to any municipality the power to
37 inspect a contractor's work or equipment, the work of a contractor
38 who performs improvements to commercial property, or the power to
39 regulate the standards and manners in which the contractor's work
40 shall be done.

41

42 14. a. The director shall establish and undertake a public
43 information campaign to educate and inform contractors and the
44 consumers of this State of the provisions of this act. The public
45 information campaign shall include, but not be limited to, the
46 preparation, printing and distribution of booklets, pamphlets or other

- 1 written pertinent information.

1 b. The director shall provide a toll-free telephone number for
2 consumers making inquiries regarding contractors.

3
4 15. Nothing in this act shall limit the application of P.L.1960, c.39
5 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in
6 regard to the registration or regulation of contractors.

7
8 16. a. Every home improvement contract, and all changes in the
9 terms and conditions of the contract, shall be in writing. The contract
10 shall be signed by all parties thereto, and shall clearly and accurately
11 set forth in legible form and in understandable language all terms and
12 conditions of the contract, including but not limited to:

13 (1) The legal name, business address, and registration number of
14 the contractor:

15 (2) A copy of the certificate of commercial general liability
16 insurance required of a contractor pursuant to section 7 of this act and
17 the telephone number of the insurance company issuing the certificate;
18 and

19 (3) The total price or other consideration to be paid by the owner,
20 including the finance charges.

21 b. A home improvement contract may be cancelled by a consumer
22 for any reason at any time before midnight of the third business day
23 after the consumer receives a copy of it. In order to cancel a contract
24 the consumer shall notify the contractor of the cancellation in writing,
25 by registered or certified mail, return receipt requested, or by personal
26 delivery, to the address specified in the contract. All moneys paid
27 pursuant to the cancelled contract shall be fully refunded within
28 30 days of receipt of the notice of cancellation. If the consumer has
29 executed any credit or loan agreement through the contractor to pay
30 all or part of the contract, the agreement or note shall be cancelled
31 without penalty to the consumer and written notice of that cancellation
32 shall be mailed to the consumer within 30 days of receipt of the notice
33 of cancellation. The contract shall contain a conspicuous notice
34 printed in at least 10-point bold-faced type as follows:

35
36 "NOTICE TO CONSUMER

37
38 YOU MAY CANCEL THIS CONTRACT AT ANY TIME
39 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY
40 AFTER RECEIVING A COPY OF THIS CONTRACT. IF
41 YOU WISH TO CANCEL THIS CONTRACT, YOU
42 MUST EITHER:

43 1. SEND A SIGNED AND DATED WRITTEN NOTICE
44 OF CANCELLATION BY REGISTERED OR
45 CERTIFIED MAIL, RETURN RECEIPT REQUESTED;
46 OR

1 2. PERSONALLY DELIVER A SIGNED AND DATED
2 WRITTEN NOTICE OF CANCELLATION TO:

3 (Name of Contractor)

4 (Address of Contractor)

5 (Phone Number of Contractor)

6
7 If you cancel this contract within the three-day period, you
8 are entitled to a full refund of your money. Refunds must
9 be made within 30 days of the contractor's receipt of the
10 cancellation notice."

11
12 17. The director, pursuant to the provisions of the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
14 promulgate rules and regulations to effectuate the purposes of this act.

15
16 18. This act shall take effect on the 180th day following
17 enactment.

18
19
20 STATEMENT

21
22 This bill requires every contractor engaged in "home
23 improvements" to annually register with the Director of the Division
24 of Consumer Affairs in the Department of Law and Public Safety
25 before doing business in this State

26 The bill makes violators subject to the provisions of the consumer
27 fraud law, P.L.1960, c.39 (C.56:8-1) and provides that a person who
28 knowingly violates the provisions of the bill is guilty of a crime of the
29 fourth degree. The bill authorizes the Director of the Division of
30 Consumer Affairs to refuse to issue or renew, or to suspend or revoke,
31 the registration of any person who violates its provisions.

32 The bill requires every registered contractor who is engaged in
33 home improvements to secure and maintain commercial general
34 liability insurance in a minimum amount of \$500,000 per occurrence.

35 The bill requires all home improvement contracts, and amendments
36 thereto, to be in writing and to be in clear and understandable
37 language. The bill requires that home improvement contracts include:
38 the legal name, business address, and registration number of the
39 contractor; a copy of the certificate of commercial general liability
40 insurance required of a contractor and the telephone number of the
41 insurance company issuing the certificate; and the total price to be paid
42 by the owner, including the finance charges.

43 The permits a consumer to cancel a home improvement contract
44 for any reason at any time before midnight of the third business day
45 after the consumer receives a copy of the contract. The bill requires
46 that the contract contain a conspicuous notice informing the consumer

1 of the right to cancel a home improvement contract within three
2 business days of signing without penalty.

3 The bill defines "home improvement" to mean the remodeling,
4 altering, renovating, repairing, restoring, modernizing, moving,
5 demolishing, or otherwise improving or modifying of the whole or any
6 part of any residential or non-commercial property. Home
7 improvement also includes insulation installation, and the conversion
8 of existing commercial structures into residential or non-commercial
9 property.

10 The bill defines a "home improvement contract" to be a written
11 agreement for the performance of a home improvement costing \$2,500
12 or more between a contractor and an owner, tenant or lessee, of a
13 residential or noncommercial property, and includes all agreements
14 under which the contractor is to perform labor or render services for
15 home improvements, or furnish materials in connection therewith.

16 The bill does not apply to:

17 a person required to register pursuant to "The New Home
18 Warranty and Builders' Registration Act;"

19 a person performing a home improvement upon a residential or
20 non-commercial property he owns, or that is owned by a member of
21 his family, a charity, or other non-profit organization;

22 a licensed person acting within the scope of practice of his
23 profession;

24 a person who is employed by a community association or
25 cooperative corporation;

26 a public utility, as defined under R.S.48:2-13;

27 a person licensed under the provisions of section 16 of P.L.1960,
28 c.41 (C.17:16C-77); or

29 a person employed by a home improvement store with a net worth
30 of more than \$50,000,000.

31 The bill requires the Director of the Division of Consumer Affairs
32 in the Department of Law and Public Safety to conduct a program of
33 public education to educate and inform contractors and consumers of
34 the bill's provisions. The requires the director to provide a toll-free
35 telephone number for consumers making inquiries regarding
36 contractors engaging in home improvements.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2052

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2004

The Assembly Regulated Professions and Independent Authorities Committee reports favorably and with committee amendments Assembly Bill No. 2052.

As amended, this bill requires every contractor engaged in home improvements to annually register with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety before doing business in this State.

The bill makes violators subject to the provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.) and provides that a person who knowingly violates the provisions of the bill is guilty of a crime of the fourth degree. The bill authorizes the Director of the Division of Consumer Affairs to refuse to issue or renew, or to suspend or revoke, the registration of any person who violates its provisions.

The bill requires every registered contractor who is engaged in home improvements to secure and maintain commercial general liability insurance in a minimum amount of \$500,000 per occurrence.

The bill requires all home improvement contracts, and amendments thereto, to be in writing and to be in clear and understandable language. The bill requires that home improvement contracts include: the legal name, business address, and registration number of the contractor; a copy of the certificate of commercial general liability insurance required of a contractor and the telephone number of the insurance company issuing the certificate; and the total price to be paid by the owner, including the finance charges.

The bill permits a consumer to cancel a home improvement contract for any reason at any time before midnight of the third business day after the consumer receives a copy of the contract. The bill requires that the contract contain a conspicuous notice informing the consumer of the right to cancel a home improvement contract within three business days of signing without penalty.

The bill defines "home improvement" to mean the remodeling, altering, renovating, repairing, restoring, modernizing, moving,

demolishing, or otherwise improving or modifying of the whole or any part of any residential or non-commercial property. Home improvement also includes insulation installation, and the conversion of existing commercial structures into residential or non-commercial property.

The bill defines a "home improvement contract" as a written agreement for the performance of a home improvement costing \$2,500 or more between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

The bill does not apply to:

(1) a person required to register pursuant to "The New Home Warranty and Builders' Registration Act;"

(2) a person performing a home improvement upon a residential or non-commercial property he owns, or that is owned by a member of his family, a charity, or other non-profit organization;

(3) a licensed person acting within the scope of practice of his profession;

(4) a person who is employed by a community association or cooperative corporation;

(5) a public utility, as defined under R.S.48:2-13;

(6) a person licensed under the provisions of section 16 of P.L.1960, c.41 (C.17:16C-77); or

(7) any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer.

The bill requires the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to conduct a program of public education to educate and inform contractors and consumers of the bill's provisions. The bill also requires the director to provide a toll-free telephone number for consumers making inquiries regarding contractors engaging in home improvements.

COMMITTEE AMENDMENTS

The committee amendments exempt from the provisions of the bill any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer. The bill originally exempted a person employed by a home improvement store with a net worth of more than \$50,000,000.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2052

with Assembly Floor Amendments
(Proposed By Assemblymen COHEN and IMPREVEDUTO)

ADOPTED: FEBRUARY 23, 2004

These amendments provide that a home improvement contract is an oral or written agreement for the performance of a home improvement, rather than only a written agreement for a home improvement costing \$2,500 or more. However, the amendments further require that every home improvement contract for a purchase price over \$500 be in writing.

In addition, the amendments stipulate that persons registered under this bill display their registration numbers in all of their advertisements, rather than only for advertisements that are printed. Also, the amendments state that a simple alphabetical listing in the residential section of a standard telephone directory does not subject a person to the provisions of this bill.

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
ASSEMBLY, No. 2052
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: APRIL 7, 2004

SUMMARY

Synopsis: Regulates contractors engaging in home improvements.
Type of Impact: Increased State Revenues and Expenditures.
Agencies Affected: Department of Law and Public Safety; Division of Consumer Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State Cost	\$797,000	\$716,000	\$739,000
State Revenue	\$945,000	\$840,000	\$840,000

- * The bill requires home improvement contractors to register with the Division of Consumer Affairs in the Department of Law and Public Safety and secure, maintain and file with the director proof of commercial general liability insurance in a minimum amount of \$500,000 per occurrence.
- * The bill authorizes the division to establish fees necessary to defray administrative costs. The division estimated that each home improvement contractor would be charged an initial application fee of \$5 and an annual registration fee of \$40.
- * The bill requires the director to conduct a public education campaign to inform home improvement contractors and consumers of its provisions.
- * The bill prohibits municipalities from issuing construction permits to home improvement contractors not registered with the division.

BILL DESCRIPTION

Assembly Bill No. 2052 (2R) of 2004 requires home improvement contractors to register with the director of the Division of Consumer Affairs in the Department of Law and Public Safety before being authorized to perform home improvements on residential or non-commercial property. The director may refuse to issue, suspend or revoke the registration of any person who violates State criminal code or similar laws in another jurisdiction.

The bill requires every registered contractor who is engaged in home improvements to

secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of \$500,000 per occurrence. Any home improvement retailer, and employee of the retailer, with a net worth of more than \$50,000,000 is not required to satisfy this security requirement.

The bill requires the director to conduct a public education campaign to inform home improvement contractors and consumers of these provisions. This bill also requires the director to provide a toll-free number for consumers making inquiries regarding contractors. Municipalities are prohibited from issuing a construction permit for any home improvement to any home improvement contractor who is not registered with the division. The bill allows consumers to cancel a home improvement contract within three business days.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Consumer Affairs in the Department of Law and Public Safety provided a fiscal estimate in a prior session.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates, based on information on a similar bill from a prior session, that the fees paid by licensees would defray program costs.

The Division of Consumer Affairs estimated, for the prior legislation, that administrative costs to register an estimated 21,000 home improvement contractors and enforce the provisions of the bill would total \$797,000 in the first year following enactment. This figure included \$532,000 for the salaries and fringe benefits of 12 positions: four investigators, three clerks, four data entry operators, and one manager. The division estimated that another \$170,000 will be required for other services, including data processing charges of \$5,000 and telephone, postage and travel charges of \$165,000; \$35,000 for materials and supplies; and \$60,000 for data processing and equipment charges. After adjusting for inflation and certain one-time costs, the division estimated the second and third year costs of the bill at \$716,000 and \$739,000, respectively. Based on the estimated 21,000 contractors, the division estimated that an annual registration fee of approximately \$40 per contractor and an initial application fee of \$5 per contractor will be needed to defray these administrative costs.

OLS observes that the fee levels estimated by the division will yield revenue in excess of administrative costs and could be reduced.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 167

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Co-Sponsored by:

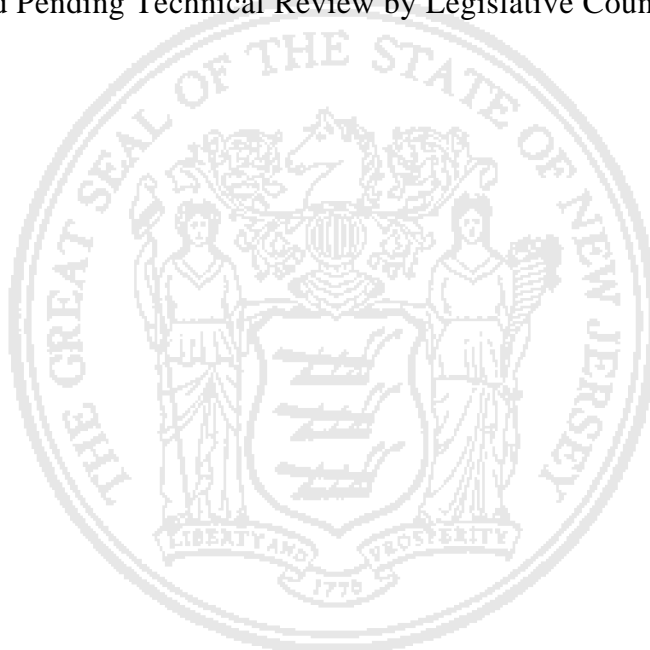
Senators Rice and Madden

SYNOPSIS

Regulates contractors engaging in home improvements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/9/2004)

1 AN ACT concerning contractors engaged in home improvements and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the “Contractors’
8 Registration Act.”

9
10 2. As used in this act:

11 "Contractor" means a person engaged in the business of making or
12 selling home improvements and includes a corporation, partnership,
13 association and any other form of business organization or entity, and
14 its officers, representatives, agents and employees.

15 "Director" means the Director of the Division of Consumer Affairs
16 in the Department of Law and Public Safety.

17 "Division" means the Division of Consumer Affairs in the
18 Department of Law and Public Safety.

19 “Home improvement” means the remodeling, altering, renovating,
20 repairing, restoring, modernizing, moving, demolishing, or otherwise
21 improving or modifying of the whole or any part of any residential or
22 non-commercial property. Home improvement shall also include
23 insulation installation, and the conversion of existing commercial
24 structures into residential or non-commercial property.

25 “Home improvement contract” means an oral or written agreement
26 for the performance of a home improvement between a contractor and
27 an owner, tenant or lessee, of a residential or noncommercial property,
28 and includes all agreements under which the contractor is to perform
29 labor or render services for home improvements, or furnish materials
30 in connection therewith.

31 “Residential or non-commercial property” means any single or
32 multi-unit structure used in whole or in part as a place of residence,
33 and all structures appurtenant thereto, and any portion of the lot or
34 site on which the structure is situated which is devoted to the
35 residential use of the structure.

36
37 3. a. No person shall offer to perform, or engage, or attempt to
38 engage in the business of making or selling home improvements unless
39 registered with the Division of Consumer Affairs in accordance with
40 the provisions of this act.

41 b. Every contractor shall annually register with the director.
42 Application for registration shall be on a form provided by the division
43 and shall be accompanied by a reasonable fee, set by the director in an
44 amount sufficient to defray the division’s expenses incurred in
45 administering and enforcing this act.

46 c. Every contractor required to register under this act shall file an

1 amended registration within 20 days after any change in the
2 information required to be included thereon. No fee shall be required
3 for the filing of an amendment.

4
5 4. Except for persons exempted pursuant to section 5 of this act,
6 any person who advertises in print or puts out any sign or card or
7 other device after the effective date of this act which would indicate
8 to the public that he is a contractor in New Jersey, or who causes his
9 name or business name to be included in a classified advertisement or
10 directory in New Jersey after the effective date of this act under a
11 classification for home improvements covered by this act, is subject to
12 the provisions of this act. This section shall not be construed to apply
13 to simple residential alphabetical listings in standard telephone
14 directories.

15
16 5. The provisions of this act shall not apply to:

17 a. Any person required to register pursuant to "The New Home
18 Warranty and Builders' Registration Act," P.L.1977, c.467
19 (C.46:3B-1 et seq.);

20 b. Any person performing a home improvement upon a residential
21 or non-commercial property he owns, or that is owned by a member
22 of his family, a bona fide charity, or other non-profit organization;

23 c. Any person regulated by the State as an architect, professional
24 engineer, landscape architect, land surveyor, electrical contractor,
25 master plumber, or any other person in any other related profession
26 requiring registration, certification, or licensure by the State, who is
27 acting within the scope of practice of his profession;

28 d. Any person who is employed by a community association or
29 cooperative corporation;

30 e. Any public utility as defined under R.S.48:2-13;

31 f. Any person licensed under the provisions of section 16 of
32 P.L.1960, c.41 (C.17:16C-77); and

33 g. Any person employed by a home improvement store with a net
34 worth of more than \$50,000,000.

35
36 6. In addition to any other procedure, condition or information
37 required by this act:

38 a. Every applicant shall file a disclosure statement with the director
39 stating whether the applicant has been convicted of any crime, which
40 for the purposes of this act shall mean a violation of any of the
41 following provisions of the "New Jersey Code of Criminal Justice,"
42 Title 2C of the New Jersey Statutes, or the equivalent under the laws
43 of any other jurisdiction:

44 (1) Any crime of the first degree;

45 (2) Any crime which is a second or third degree crime and is a

1 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
2 or

3 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
4 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
5 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-
6 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through
7 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-
8 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes,
9 N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through
10 2C:37-4.

11 b. The director may refuse to issue or may suspend or revoke any
12 registration issued by him upon proof that the applicant or holder of
13 the registration:

14 (1) Has obtained a registration through fraud, deception or
15 misrepresentation;

16 (2) Has engaged in the use or employment of dishonesty, fraud,
17 deception, misrepresentation, false promise or false pretense;

18 (3) Has engaged in gross negligence, gross malpractice or gross
19 incompetence;

20 (4) Has engaged in repeated acts of negligence, malpractice or
21 incompetence;

22 (5) Has engaged in professional or occupational misconduct as may
23 be determined by the director;

24 (6) Has been convicted of any crime involving moral turpitude or
25 any crime relating adversely to the activity regulated by this act. For
26 the purpose of this subsection a plea of guilty, non vult, nolo
27 contendere or any other such disposition of alleged criminal activity
28 shall be deemed a conviction;

29 (7) Has had his authority to engage in the activity regulated by the
30 director revoked or suspended by any other state, agency or authority
31 for reasons consistent with this section;

32 (8) Has violated or failed to comply with the provisions of any act
33 or regulation administered by the director;

34 (9) Is incapable, for medical or any other good cause, of
35 discharging the functions of a licensee in a manner consistent with the
36 public's health, safety and welfare.

37 c. An applicant whose registration is denied, suspended, or
38 revoked pursuant to this section shall, upon a written request
39 transmitted to the director within 30 calendar days of that action, be
40 afforded an opportunity for a hearing in a manner provided for
41 contested cases pursuant to the "Administrative Procedure Act,"
42 P.L.1968, c.410 (C.52:14B-1 et seq.).

43 d. An applicant shall have the continuing duty to provide any
44 assistance or information requested by the director, and to cooperate
45 in any inquiry, investigation, or hearing conducted by the director.

46 e. If any of the information required to be included in the

1 disclosure statement changes, or if additional information should be
2 added after the filing of the statement, the applicant shall provide that
3 information to the director, in writing, within 30 calendar days of the
4 change or addition.

5 f. Notwithstanding the provisions of paragraph (6) of subsection
6 b. of this section, no individual shall be disqualified from registration
7 or shall have registration revoked on the basis of any conviction
8 disclosed if the individual has affirmatively demonstrated to the
9 director clear and convincing evidence of the individual's
10 rehabilitation. In determining whether an individual has affirmatively
11 demonstrated rehabilitation, the following factors shall be considered:

12 (1) The nature and responsibility of the position which the
13 convicted individual would hold;

14 (2) The nature and seriousness of the offense;

15 (3) The circumstances under which the offense occurred;

16 (4) The date of the offense;

17 (5) The age of the individual when the offense was committed;

18 (6) Whether the offense was an isolated or repeated incident;

19 (7) Any social conditions which may have contributed to the
20 offense; and

21 (8) Any evidence of rehabilitation, including good conduct in
22 prison or in the community, counseling or psychiatric treatment
23 received, acquisition of additional academic or vocational schooling,
24 successful participation in correctional work-release programs, or the
25 recommendation of persons who have had the individual under their
26 supervision.

27
28 7. a. Every registered contractor who is engaged in home
29 improvements shall secure, maintain and file with the director proof of
30 a certificate of commercial general liability insurance in a minimum
31 amount of \$500,000 per occurrence.

32 b. Every proof of a commercial general liability insurance policy
33 required to be filed with the director shall provide that cancellation or
34 nonrenewal of the policy shall not be effective unless and until at least
35 10 days' notice of intention to cancel or nonrenew has been received
36 in writing by the director.

37
38 8. a. The director may refuse to issue or renew, and may revoke
39 any registration for failure to comply with, or for a violation of the
40 provisions of this act or for any other good cause shown within the
41 meaning and purpose of this act. A refusal or revocation shall not be
42 made except upon reasonable notice to, and opportunity to be heard
43 by, the applicant or registrant.

44 b. The director, in lieu of revoking a registration, may suspend the
45 registration for a reasonable period of time, or assess a penalty in lieu
46 of suspension, or both, and may issue a new registration,

1 notwithstanding the revocation of a prior registration, if the applicant
2 is found to have become entitled to the new registration.

3
4 9. a. All registrants shall prominently display their registration
5 numbers within their places of business, in all advertisements
6 distributed within this State, on business documents, contracts and
7 correspondence with consumers of home improvement services in this
8 State, and on all commercial vehicles registered in this State and
9 leased or owned by registrants and used by registrants for the purpose
10 of providing home improvements, except for vehicles leased or rented
11 to customers of registrants by a registrant or any agent or
12 representative thereof.

13 b. Any invoice, contract or correspondence given by a registrant
14 to a consumer shall prominently contain the toll-free telephone number
15 provided pursuant to section 14 of this act.

16
17 10. The provisions of this act shall apply to any person engaging
18 in any of the activities regulated by this act in this State, including
19 persons whose residence or principal place of business is located
20 outside of this State.

21
22 11. a. It is an unlawful practice and a violation of P.L.1960, c.39
23 (C.56:8-1 et seq.) to violate any provision of this act.

24 b. In addition to any other penalty provided by law, a person who
25 knowingly violates any of the provisions of this act is guilty of a crime
26 of the fourth degree.

27
28 12. a. This act shall supersede any municipal ordinance or
29 regulation that provides for the licensing or registration of contractors
30 or for the protection of homeowners by bonds or warranties required
31 to be provided by contractors, exclusive of those required by water,
32 sewer, utility, or land use ordinances or regulations.

33 b. No municipality shall issue a construction permit for any home
34 improvement to any contractor who is not registered pursuant to the
35 provisions of this act.

36
37 13. This act shall not deny to any municipality the power to inspect
38 a contractor's work or equipment, the work of a contractor who
39 performs improvements to commercial property, or the power to
40 regulate the standards and manners in which the contractor's work
41 shall be done.

42
43 14. a. The director shall establish and undertake a public
44 information campaign to educate and inform contractors and the
45 consumers of this State of the provisions of this act. The public
46 information campaign shall include, but not be limited to, the

1 preparation, printing and distribution of booklets, pamphlets or other
2 written pertinent information.

3 b. The director shall provide a toll-free telephone number for
4 consumers making inquiries regarding contractors.

5

6 15. Nothing in this act shall limit the application of P.L.1960, c.39
7 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in
8 regard to the registration or regulation of contractors.

9

10 16. a. Every home improvement contract for a purchase price in
11 excess of \$500, and all changes in the terms and conditions of the
12 contract, shall be in writing. The contract shall be signed by all parties
13 thereto, and shall clearly and accurately set forth in legible form and
14 in understandable language all terms and conditions of the contract,
15 including but not limited to:

16 (1) The legal name, business address, and registration number of
17 the contractor:

18 (2) A copy of the certificate of commercial general liability
19 insurance required of a contractor pursuant to section 7 of this act and
20 the telephone number of the insurance company issuing the certificate;
21 and

22 (3) The total price or other consideration to be paid by the owner,
23 including the finance charges.

24 b. A home improvement contract may be cancelled by a consumer
25 for any reason at any time before midnight of the third business day
26 after the consumer receives a copy of it. In order to cancel a contract
27 the consumer shall notify the contractor of the cancellation in writing,
28 by registered or certified mail, return receipt requested, or by personal
29 delivery, to the address specified in the contract. All moneys paid
30 pursuant to the cancelled contract shall be fully refunded within
31 30 days of receipt of the notice of cancellation. If the consumer has
32 executed any credit or loan agreement through the contractor to pay
33 all or part of the contract, the agreement or note shall be cancelled
34 without penalty to the consumer and written notice of that cancellation
35 shall be mailed to the consumer within 30 days of receipt of the notice
36 of cancellation. The contract shall contain a conspicuous notice
37 printed in at least 10-point bold-faced type as follows:

38

39

"NOTICE TO CONSUMER

40

41 YOU MAY CANCEL THIS CONTRACT AT ANY TIME
42 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY
43 AFTER RECEIVING A COPY OF THIS CONTRACT. IF
44 YOU WISH TO CANCEL THIS CONTRACT, YOU MUST
45 EITHER:

S167 BRYANT, SARLO

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- 1 improvement contractor who is not registered with the division. The
- 2 bill allows consumers to cancel a home improvement contract within
- 3 three business days.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 167

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 1, 2004

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments, Senate Bill No. 167.

This bill, as amended, would prohibit home improvement contractors from doing business in New Jersey unless registered with the State Division of Consumer Affairs. Registrations would be renewed annually. Applicants would be required to file statements disclosing whether the applicant had been convicted of a crime. The division could refuse to issue an application or suspend or revoke a registration for various enumerated reasons, including but not limited to:

- * fraudulently obtaining a registration;
- * dishonesty;
- * gross negligence, gross malpractice or gross incompetence;
- * repeated negligence, malpractice or incompetence;
- * professional or occupational misconduct; or
- * conviction of certain types of crimes.

The bill would not apply to:

- * a person required to register pursuant to "The New Home Warranty and Builders' Registration Act;"
- * a person performing a home improvement upon his own property or property owned by a member of his family, a charity, or a non-profit organization;
- * a licensed person acting within the scope of practice of his profession;
- * a person who is employed by a community association or cooperative corporation;
- * a public utility, as defined under R.S.48:2-13;
- * a person licensed under the provisions of section 16 of P.L.1960, c.41 (C.17:16C-77); or
- * any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer.

The bill would require every registered home improvement contractor to secure and maintain commercial general liability insurance in a minimum amount of \$500,000 per occurrence.

The bill would require every home improvement contract for more than \$500, and any changes to the contract, to be in writing and to be in clear and understandable language. The bill would require a home improvement contract to set forth:

- * the legal name, business address, and registration number of the contractor;
- * a copy of the certificate of commercial general liability insurance required of a contractor and the telephone number of the insurance company issuing the certificate; and
- * the total price to be paid by the owner, including the finance charges.

The bill would allow a consumer to cancel a home improvement contract for any reason at any time before midnight of the third business day after the consumer receives a copy of the contract, without penalty. The bill would require the contract to contain a conspicuous notice informing the consumer of the right to cancel.

The bill would define "home improvement" to mean the remodeling, altering, renovating, repairing, restoring, modernizing, moving, demolishing, or otherwise improving or modifying of the whole or any part of any residential or non-commercial property. Home improvement would also include insulation installation and the conversion of existing commercial structures into residential or non-commercial property.

The bill would define a "home improvement contract" as an oral or written agreement for the performance of a home improvement between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and would include all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

The bill would require the Division of Consumer Affairs to conduct a program of public education to educate and inform contractors and consumers of the bill's provisions. The bill would require the division to provide a toll-free telephone number for consumers making inquiries regarding contractors engaging in home improvements.

The bill would subject violators of the bill's provisions to the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.). In addition, a knowing violation of any provision of the bill would constitute a crime of the fourth degree. The bill would authorize the Director of the Division of Consumer Affairs to refuse to issue or renew, or to suspend or revoke, the registration of any person who violates its provisions.

The committee amended the bill to clarify the effective date and that the bill would not be applicable to home improvement retailers with a net worth of more than \$50,000,000 and their employees. These amendments make the bill identical to Assembly, No. 2052 (2R).

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 167

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: APRIL 23, 2004

SUMMARY

Synopsis: Regulates contractors engaging in home improvements.
Type of Impact: Fees paid by licensees would defray program costs.
Agencies Affected: Department of Law and Public Safety, Division of Consumer Affairs

Office of Legislative Services Estimate

Fiscal Impact	FY 05	FY 06	FY 07
State Cost	\$797,000	\$716,000	\$739,000
State Revenue	\$945,000	\$840,000	\$840,000

- * Requires home improvement contractors to register with the Division of Consumer Affairs in the Department of Law and Public Safety and secure, maintain and file with the director proof of commercial general liability insurance in a minimum amount of \$500,000 per occurrence.
- * Prohibits municipalities from issuing construction permits to home improvement contractors not registered with the division.
- * Requires the director to conduct a public education campaign to inform home improvement contractors and consumers of its provisions.
- * Authorizes the division to establish fees necessary to defray administrative costs. The division estimated that each home improvement contractor would be charged an initial application fee of \$5 and an annual registration fee of \$40.

BILL DESCRIPTION

Senate Bill No. 167 (1R) of 2004 is the "Contractors' Registration Act." It requires home improvement contractors to register with the director of the Division of Consumer Affairs, in the Department of Law and Public Safety, before being authorized to perform home improvements on residential or non-commercial property. The director may refuse to issue, suspend or revoke the registration of any person who violates State criminal code or similar laws in another jurisdiction.

The bill requires every registered contractor who is engaged in home improvements to secure, maintain and file with the director proof of a certificate of commercial general liability

insurance in a minimum amount of \$500,000 per occurrence. Any home improvement retailer, and employee of the retailer, with a net worth of more than \$50,000,000 is not required to satisfy this security requirement.

The bill requires the director to conduct a public education campaign to inform home improvement contractors and consumers of these provisions. This bill also requires the director to provide a toll-free number for consumers making inquiries regarding contractors. Municipalities are prohibited from issuing a construction permit for any home improvement to any home improvement contractor who is not registered with the division. The bill allows consumers to cancel a home improvement contract within three business days.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Consumer Affairs in the Department of Law and Public Safety provided a fiscal estimate in a prior session.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates, based on information on a similar bill from a prior session, that the fees paid by licensees would defray program costs.

The Division of Consumer Affairs estimated, for the prior legislation, administrative costs to register an estimated 21,000 home improvement contractors and enforce the provisions of the bill would total \$797,000 in the first year following enactment. This figure included \$532,000 for the salaries and fringe benefits of 12 positions: four investigators, three clerks, four data entry operators, and one manager. The division estimated that another \$170,000 will be required for other services, including data processing charges of \$5,000 and telephone, postage and travel charges of \$165,000; \$35,000 for materials and supplies; and \$60,000 for data processing and equipment charges. After adjusting for inflation and certain one-time costs, the division estimated the second and third year costs of the bill at \$716,000 and \$739,000, respectively.

Based on the estimated 21,000 contractors, the division estimated that an annual registration fee of approximately \$40 per contractor and an initial application fee of \$5 per contractor will be needed to defray these administrative costs.

OLS observes that the fee levels estimated by the division will yield revenue in excess of administrative costs and could be reduced.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.