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Home Elevation Contractors Law

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56:8-138. Registration for contractors; application, fee.

- a. On or after December 31, 2005, no person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provisions of this act.
- b. Every contractor shall annually register with the director. Application for registration shall be on a form provided by the division and shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.
- c. Every contractor required to register under this act shall file an amended registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment.

L.2004,c.16,s.3; amended 2004, c.155, s.1.

56:8-138.1. Identification badge required for certain contractors.

- a. Every contractor required to register under the "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.) shall have in his possession an identification badge, issued pursuant to subsection b. of this section, whenever the contractor is performing, or engaging, or attempting to engage, in the business of making or selling home improvements. The identification badge shall be plainly visible and worn on the upper left corner of his torso when the contractor is performing, or engaging, or attempting to engage, in the business of selling home improvements.
- b. Upon the application of a registered contractor, the director shall issue, or cause to be issued, a personalized identification badge to the contractor. The identification badge shall include a color photograph of the contractor's face, the contractor's name, the contractor's registration number, and the name of the contractor's business displayed in a manner that will be plainly visible and permit recognition when worn by the contractor. The badge shall include a statement, written in such a way as to be plainly visible when worn by the contractor, that the badge is not for an electrical contractor, plumbing contractor or HVACR contractor license. The identification badge shall be made in such a way and of such material that any attempt to alter the badge will result in it being immediately, permanently and obviously ruined. The photograph included on the identification badge shall be taken no more than four weeks before the date upon which the identification badge is issued. A contractor shall apply for and obtain a new identification badge at least once every six years.
- c. The director may charge the contractor a reasonable fee to cover the costs of the identification badge issued pursuant to this section.
- d. A contractor who has been issued an identification badge pursuant to subsection b. of this section and whose registration has been suspended, revoked, or has not been renewed, shall, within three days of that suspension, revocation or nonrenewal, surrender the identification badge to the director.
- e. A person who knowingly exhibits or displays an identification badge issued pursuant to subsection b. of this section and is not at that time registered as a contractor pursuant to the

"Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.), including any contractor who has had his registration revoked, suspended, or not renewed, is guilty of a crime of the fourth degree.

L.2013, c.144, s.1.

56:8-138.2. Home elevation contractors, rules, regulations; fees; penalties.

a. In addition to complying with the other requirements of the "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.), no person shall offer to perform, or engage, or attempt to engage in the business of home elevation unless registered with the division as a home elevation contractor.

b. The division shall adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of P.L.2014, c.34 (C.56:8-138.2 et al.) with regard to registration of home elevation contractors, and may establish fees for this purpose. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Division of Consumer Affairs may adopt immediately upon filing with the Office of Administrative Law rules and regulations for this purpose, which shall be effective for a period not to exceed 270 days following the date of enactment of P.L.2014, c.34 (C.56:8-138.2 et al.), and may thereafter be amended, adopted, or readopted, by the division in accordance with the requirements of the "Administrative Procedure Act".

c. In addition to any other civil or criminal penalty that may apply, any person who makes a false statement in connection with the process for registration as a home elevation contractor pursuant to this section or in regard to any statement required to be made pursuant to section 7 of P.L.2004, c.16 (C.56:8-142) shall be liable for a civil penalty of not less than \$10,000 or more than \$25,000. Such penalty may be imposed by the director and shall be collected by summary proceedings instituted in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. In addition to any other action that may be authorized by law, the director may suspend or revoke the home improvement contractor registration and home elevation contractor registration of any person who violates any provision of P.L.2014, c.34 (C.56:8-138.2 et al.).

L.2014, c.34, s.1.

56:8-139. Act applicable to contractors who publicly advertise.

Except for persons exempted pursuant to section 5 of this act, any person who advertises in print or puts out any sign or card or other device on or after December 31, 2005, which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey on or after December 31, 2005, under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

L.2004,c.16,s.4; amended 2004, c.155, s.2.

56:8-140. Inapplicability of act.

The provisions of this act shall not apply to:

- a. Any person required to register pursuant to "The New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.);
- b. Any 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 bona fide charity, or other non-profit organization;
- c. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of his profession;
- d. Any person who is employed by a community association or cooperative corporation;
- e. Any public utility as defined under R.S.48:2-13;
- f. Any person licensed under the provisions of section 16 of P.L.1960, c.41 (C.17:16C-77); and
- g. Any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer.

L.2004,c.16,s.5.

56:8-141. Additional requirements; refusal to issue or suspend or revoke registration; grounds.

In addition to any other procedure, condition or information required by this act:

- a. Every applicant shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:
 - (1) Any crime of the first degree;
 - (2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or
 - (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4.
- b. The director may refuse to issue or may suspend or revoke any registration issued by him upon proof that the applicant or holder of the registration:
 - (1) Has obtained a registration through fraud, deception or misrepresentation;

- (2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- (3) Has engaged in gross negligence, gross malpractice or gross incompetence;
- (4) Has engaged in repeated acts of negligence, malpractice or incompetence;
- (5) Has engaged in professional or occupational misconduct as may be determined by the director;
- (6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by this act. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- (7) Has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- (8) Has violated or failed to comply with the provisions of any act or regulation administered by the director;
- (9) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

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

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

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

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

- (1) The nature and responsibility of the position which the convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;

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

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

L.2004,c.16,s.6.

56:8-142. Proof of commercial general liability insurance, cargo, other insurance, posting of bond; requirements.

a. On or after December 31, 2005, every registered contractor who is engaged in home improvements shall 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.

b. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is cancelled or nonrenewed shall submit to the director a copy of the certificate of commercial general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

c. Every home elevation contractor engaged in performing home elevations, in addition to the insurance required pursuant to subsection a. of this section, shall secure and maintain cargo or other insurance that specifically covers home elevation activities, in a minimum amount of \$1,000,000 per occurrence to cover damages or other losses to the homeowner, lessee, tenant or other party resulting from a home elevation, except as otherwise provided in this subsection. The Director of the Division of Consumer Affairs in consultation with the Department of Banking and Insurance may promulgate rules and regulations to implement this subsection, which rules and regulations also may require that home elevation contractors secure and maintain additional insurance of such kind and in such amounts as the director may determine in consultation with the Department of Banking and Insurance. In addition to or as an alternative to the insurance required by this subsection, the director may also require the posting of a bond in favor of the owner, lessee, tenant or other party to the home improvement contract for home elevation. Every bond and insurance policy required to be maintained under this subsection shall provide that the issuer of that bond or policy shall give the director written notice of cancellation or non-renewal of the bond or policy within 10 days of the cancellation or non-renewal.

d. A home elevation contractor, prior to entering into an agreement to perform a home elevation, shall provide proof of insurance to the homeowner including the issuing insurer, policy number, type, and amount of insurance coverage maintained by the contractor in accordance with this section.

L.2004, c.16, s.7; amended 2004, c.155, s.3; 2014, c.34, s.4.

56:8-143. Refusal to issue, renew, revocation, suspension of registration; procedures.

a. The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or for any other good cause shown within the

meaning and purpose of this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

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

L.2004,c.16,s.8.

52:27D-123.16. Rules, regulations relative to home elevations.

a. The Department of Community Affairs shall promulgate rules and regulations setting forth standards, methods, procedures and other requirements that must be followed in performing home elevations. A home elevation contractor, as defined in section 2 of P.L.2004, c.16 (C.56:8-137), shall comply with the standards, methods, procedures and any other requirements for home elevation projects as specified in rules and regulations promulgated by the Department of Community Affairs.

b. No home elevation contractor shall perform a home elevation unless the contractor or a person the contractor employs has a minimum of five years of experience in home elevation. For the purposes of this subsection, experience in home elevation shall include both experience in working directly on home elevation projects and training in the operation of home elevation equipment.

c. At the time the home elevation contractor applies for a permit to perform a home elevation, the home elevation contractor shall certify that the home elevation contractor is in compliance with P.L.2014, c.34 (C.56:8-138.2 et al.) and any regulations promulgated thereunder, which certification shall be submitted with the permit application in a form prescribed by the Department of Community Affairs.

d. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Division of Codes and Standards in the Department of Community Affairs may adopt immediately upon filing with the Office of Administrative Law any rules and regulations deemed necessary to implement the provisions of subsection a. of this section, which shall be effective for a period not to exceed 270 days following the date of enactment of P.L.2014, c.34 (C.56:8-138.2 et al.), and may thereafter be amended, adopted, or readopted, by the division in accordance with the requirements of the "Administrative Procedure Act."

L.2014, c.34, s.2.