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NEW JERSEY ADMINISTRATIVE CODE

TITLE 13

LAW AND PUBLIC SAFETY

CHAPTER 45A

ADMINISTRATIVE RULES OF THE DIVISION

OF CONSUMER AFFAIRS

SUBCHAPTERS 16, 17 & 17A

HOME IMPROVEMENT PRACTICES

HOME IMPROVEMENT CONTRACTORS

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SUBCHAPTER 16. HOME IMPROVEMENT PRACTICES

13:45A-16.1 PURPOSE AND SCOPE

- a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., by providing procedures for the regulation and content of home improvement contracts and establishing standards to facilitate enforcement of the requirements of the Act.

- b) The rules in this subchapter shall apply to all sellers as defined in N.J.A.C. 13:45A-16.1A and to all home improvement contractors as defined in N.J.A.C. 13:45A-17.2 whether or not they are exempt from the provisions of N.J.A.C. 13:45A-17.

13:45A-16.1A DEFINITIONS

The following words and terms, when used in this subchapter, shall have the following meanings unless the context indicates otherwise.

“Home improvement” means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or noncommercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, fire protection devices, security protection devices, central heating and air conditioning equipment, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or noncommercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or noncommercial property and includes any of the above activities performed under emergency conditions.

“Home improvement contract” means an oral or written agreement between a seller and an owner of residential or noncommercial property, or a seller and a tenant or lessee of residential or noncommercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the

seller is to perform labor or render services for home improvements, or furnish materials in connection therewith.

“Residential or non-commercial property” means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

“Sales representative” means a person employed by or contracting with a seller for the purpose of selling home improvements.

“Seller” means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations and any other form of business organization or entity, and their officers, representatives, agents and employees.

13:45A-16.2 UNLAWFUL PRACTICES

- a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization by a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder.
- 1) Model home representations: Misrepresent or falsely state to a prospective buyer that the buyer’s residential or noncommercial property is to serve as a “model” or “advertising job”, or use any other prospective buyer lure to mislead the buyer into believing that a price reduction or other compensation will be received by reason of such representations;
 - 2) Product and material representations: Misrepresent directly or by implication that products or materials to be used in the home improvement:
 - i) Need no periodic repainting, finishing, maintenance or other service;
 - ii) Are of a specific or well-known brand name, or are produced by a specific manufacturer or exclusively distributed by the seller;
 - iii) Are of a specific size, weight, grade or quality, or possess any other distinguishing characteristics or features;

- iv) Perform certain functions or substitute for, or are equal in performance to, other products or materials;
- v) Meet or exceed municipal, state, federal, or other applicable standards or requirements;
- vi) Are approved or recommended by any governmental agency, person, firm or organization, or that they are the users of such products or materials;
- vii) Are of sufficient size, capacity, character or nature to do the job expected or represented;
- viii) Are or will be custom-built or specially designed for the needs of the buyer; or
- ix) May be serviced or repaired within the buyer's immediate trade area, or be maintained with replacement and repair parts which are readily available.

3. Bait Selling:

- i) Offer or represent specific products or materials as being for sale, where the purpose or effect of the offer or representation is not to sell as represented but to bait or entice the buyer into the purchase of other or higher priced substitute products or materials;
- ii) Disparage, degrade, or otherwise discourage the purchase of products or materials offered or represented by the seller as being for sale to induce the buyer to purchase other or higher priced substitute products or materials;
- iii) Refuse to show, demonstrate or sell products or materials as advertised, offered, or represented as being for sale;
- iv) Substitute products or materials for those specified in the home improvement contract, or otherwise represented or sold for use in the making of home improvements by sample, illustration or model, without the knowledge or consent of the buyer;
- v) Fail to have available a quantity of the advertised product sufficient to meet reasonably anticipated demands; or
- vi) Misrepresent that certain products or materials are unavailable or that there will be a long delay in their manufacture, delivery, service, or installation in order to induce a buyer to purchase other or higher priced substitute products or materials from the seller.

4. Identity of seller:

i) Deceptively gain entry into the prospective buyer's home or onto the buyer's property under the guise of any governmental or public utility inspection, or otherwise misrepresent that the seller has any official right, duty or authority to conduct an inspection;

ii) Misrepresent that the seller is an employee, office or representative of a manufacturer, importer or any other person, firm or organization, or a member of any trade association, or that such person, firm or organization will assume some obligation in fulfilling the terms of the contract;

iii) Misrepresent the status, authority or position of the sales representative in the organization he represents;

iv) Misrepresent that the sales representative is an employee or representative of or works exclusively for a particular seller; or

v) Misrepresent that the seller is part of any governmental or public agency in any printed or oral communication including but not limited to leaflets, tracts or other printed material, or that any licensing denotes approval by the governmental agency.

5. Gift offers:

i) Offer or advertise any gift, free item or bonus without fully disclosing the terms or conditions of the offer, including expiration date of the offer and when the gift, free item or bonus will be given; or

ii) Fail to comply with the terms of such offer.

6. Price and financing:

i) Misrepresent to a prospective buyer that an introductory, confidential, close-out, going out of business, factory, wholesale, or any other special price or discount is being given, or that any other concession is made because of a market survey or test, use of materials left over from another job, or any other reason;

ii) Misrepresent that any person, firm or organization, whether or not connected with the seller, is especially interested in seeing that the prospective buyer gets a bargain, special price, discount or any other benefit or concession;

iii) Misrepresent or mislead the prospective buyer into believing that insurance or some other form of protection will be furnished to relieve the buyer from obligations under the contract if the buyer becomes ill, dies or is unable to make payments;

iv) Misrepresent or mislead the buyer into believing that no obligation will be incurred because of the signing of any document, or that the buyer will be relieved of some or all obligations under the contract by the signing of any documents;

v) Request the buyer to sign a certificate of completion, or make final payment on the contract before the home improvement is completed in accordance with the terms of the contract;

vi) Misrepresent or fail to disclose that the offered or contract price does not include delivery or installation, or that other requirements must be fulfilled by the buyer as a condition to the performance of labor, services, or the furnishing of products or materials at the offered or contract price;

vii) Mislead the prospective buyer into believing that the down payment or any other sum constitutes the full amount the buyer will be obligated to pay;

viii) Misrepresent or fail to disclose that the offered or contract price does not include all financing charges, interest service charges, credit investigation costs, building or installation permit fees, or other obligations, charges, cost or fees to be paid by the buyer;

ix) Advise or induce the buyer to inflated the value of the buyer's property or assets, or to misrepresent or falsify the buyer's true financial position in order to obtain credit; or

x) Increase or falsify the contract price, or induce the buyer by any means to misrepresent or falsify the contract price or value of the home improvement for financing purposes or to obtain additional credit.

7. Performance:

i) Deliver materials, begin work, or use any similar tactic to unduly pressure the buyer into a home improvement contract, or make any claim or assertion that a binding contract has been agreed upon where no final agreement or understanding exists;

ii) Fail to begin or complete work on the date or within the time period specified in the home improvement contract, or as otherwise represented, unless the delay is for reason of labor stoppage; unavailability of supplies or materials, unavoidable casualties, or any other

cause beyond the seller's control. Any changes in the dates or time periods stated in a written contract shall be agreed to in writing; or

iii) Fail to give timely written notice to the buyer of reasons beyond the seller's control for any delay in performance, and when the work will begin or be completed.

8. Competitors:

i) Misrepresent that the work of a competitor was performed by the seller;

ii) Misrepresent that the seller's products, materials or workmanship are equal to or better than those of a competitor; or

iii) Use or imitate the trademarks, trade names, labels or other distinctive marks of a competitor.

9. Sales representations:

i) Misrepresent or mislead the buyer into believing that a purchase will aid or help some public, charitable, religious, welfare or veterans' organization, or misrepresent the extent of such aid or assistance;

ii) Knowingly fail to make any material statement of fact, qualification or explanation if the omission of such statement, qualification or explanation causes an advertisement, announcement, statement or representation to be false, deceptive or misleading; or

iii) Misrepresent that the customer's present equipment, material, product, home or a part thereof is dangerous or defective, or in need of repair or replacement.

10. Building permits

i) No seller contracting for the making of home improvements shall commence work until he is sure that all applicable state or local building and construction permits have been issued as required under state laws or local ordinances; or

ii) Where midpoint or final inspections are required under state laws or local ordinances, copies of inspection certificates shall be furnished to the buyer by the seller when construction is completed and before final payment is due or the signing of a completion slip is requested of the buyer.

11. Guarantees or warranties:

i) The seller shall furnish the buyer a written copy of all guarantees or warranties made with respect to labor services, products or materials furnished in connection with home improvements. Such guarantees or warranties shall be specific, clear and definite and shall include any exclusions or limitations as to their scope or duration. Copies of all guarantees or warranties shall be furnished to the buyer at the time the seller presents his bid as well as at the time of execution of the contract, except that separate guarantees or warranties of the manufacturer of products or materials may be furnished at the time such products or materials are installed.

12. Home improvement contract requirements – writing requirement: All home improvement contracts for a purchase price in excess of \$500.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including, but not limited to, the following:

i) The legal name and business address of the seller, including the legal name and business address of the sales representative or agent who solicited or negotiated the contract for the seller;

ii) A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size or quantity of principal building or construction materials to be used. Where specific representations are made that certain types of products or materials will be used, or the buyer has specified that certain types of products are to be used, a description of such products or materials shall be clearly set forth in the contract;

iii) The total price or other consideration to be paid by the buyer, including all finance charges. If the contract is one for time and materials, the hourly rate for labor and all other terms and conditions of the contract affecting price shall be clearly stated;

iv) The dates or time period on or within which the work is to begin and be completed by the seller;

v) A description of any mortgage or security interest to be taken in connection with the financing or sale of the home improvement; and

vi) A statement of any guarantee or warranty with respect to any products, materials, labor or services made by the seller.

13. Disclosures and obligations concerning preservation of buyers' claims and defenses:

i) If a person other than the seller is to act as the general contractor or assume responsibility for performance of the contract, the name and address of such person shall be disclosed in the oral or written contract, except as otherwise agreed, and the contract shall not be sold or assigned without the written consent of the buyer;

ii) No home improvement contract shall require or entail the execution of any note, unless such note shall have conspicuously printed thereon the disclosures required by either State law (N.J.S.A. 17:16C-64.2(consumer note)) or Federal law (16 C.F.R. section 433.2) concerning the preservation of buyers' claims and defenses.

SUBCHAPTER 17. HOME IMPROVEMENT CONTRACTOR REGISTRATION

13:45A-17.1 PURPOSE AND SCOPE

- a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. as amended by P.L. 2004, c.16 (N.J.S.A. 56:8-136 et seq.), P.L. 2013, c. 144, and P.L. 2014, c. 34 by providing procedures for the regulation of home improvement contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division's registration procedures for those persons who fall under the requirements of this law.

- b) These rules shall apply to home improvement contractors in this State, unless otherwise exempt under N.J.A.C. 13:45A-17.4. Home elevation contractors registered pursuant to N.J.A.C. 13:45A-17A.3 shall be subject to the rules of this subchapter when performing home improvements other than home elevations.

- c) Home improvement contractors who have entered into a contract with a consumer to perform home elevation services prior to October 1, 2014, shall be deemed to be in compliance so long as the contractor maintains written proof that the consumer has been apprised of the requirements that became effective on October 1, 2014, including those required at N.J.A.C. 13:45A-17A.4(b) and 17A.11(b) which will be implemented on June 17, 2015, and the consumer has knowingly elected to proceed under the terms of that contract.

13:45A-17.2 DEFINITIONS

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Advertise” means to communicate to the public by means of any print, electronic or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer or the Internet. “Advertise” includes having a person's name in a classified advertisement or directory in this State under any classification of home improvement as defined in this section but does not include simple residential alphabetical listings in standard telephone directories.

“Badge declaration” means the electronic form that a registered entity must complete, as set forth in N.J.A.C. 13:45A-17.5A(b), which identifies individuals performing, engaging, or attempting to engage in the sale of home improvements.

“Director” means the Director of the Division of Consumer Affairs.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Employee” means employee as defined in N.J.A.C. 18:35-7.1.

“Entity” means the business registered or to be registered as a home improvement contractor.

“Home elevation contractor” means a person engaged in the business of making or selling home elevations and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

“Home improvement” means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or non-commercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, home elevation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or non-commercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or non-commercial property and includes any of the above activities performed under emergency conditions. The term does not apply to any work required to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor. Home elevations are home improvements that require registration pursuant to N.J.A.C. 13:45A-17A.

“Home improvement contract” means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or noncommercial property, or a contractor and a tenant or lessee of residential or noncommercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon

such 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.

“Home improvement contractor” or “contractor” means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations and any other form of business organization or entity, and their officers, representatives, agents and employees.

“Residential or non-commercial property” means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

“Sale of home improvements” means any action taken by or on behalf of an entity with the goal of entering into a contract with a consumer for the performance of a home improvement or home improvements, including, but not limited to: initial contact with the consumer; taking measurements; presenting estimates for the cost of home improvements; and entering into the contract with the consumer for the completion of home improvements.

“State-authorized vendor or vendors” means the business or businesses with which the State has contracted to act on behalf of the Director for the issuance and management of home improvement and home elevation contractor identification badges.

13:45A-17.3 REGISTRATION REQUIRED

a) Unless exempt under N.J.A.C. 13:45A-17.4:

- 1) No person shall engage in the business of making or selling home improvements in this State unless registered with the Division in accordance with this subchapter; and
- 2) No person shall advertise indicating that the person is a contractor in this State unless the person is registered with the Division in accordance with this subchapter.

b) Unless exempt under N.J.A.C. 13:45A-17.4, contractors hired by other contractors to make or sell any home improvements shall register with the Division in accordance with this subchapter.

- c) Officers and employees of a registered home improvement contractor shall not be required to register separately from the registered business entity provided that the officers and employees sell or make home improvements solely within their respective scopes of performance for that registered business entity.
- d) Officers and employees of a home improvement contractor that is exempt under N.J.A.C. 13:45A-17.4 shall not be required to register provided that the officers and employees sell or make home improvements solely within their respective scopes of performance for that exempt business entity.
- e) Home elevation contractors registered pursuant to N.J.A.C. 13:45A-17A.3 shall be permitted to engage in the business of making or selling home improvements.

13:45A-17.4 EXEMPTIONS

- a) The following persons are exempt from the registration requirements of this subchapter:
 - 1) Any person registered pursuant to “the New Home Warranty and Builders’ Registration Act,” P.L. 1977, c.467 (N.J.S.A. 46:3B-1 et seq.), but only in conjunction with the building of a new home as defined in N.J.A.C. 5:25-1.3;
 - 2) Any person performing a home improvement upon a residential or non-commercial property owned by that person, or by the person’s family;
 - 3) Any person performing a home improvement upon a residential or non-commercial property owned by a bona fide charity or other non-profit organization;
 - 4) Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, locksmith, burglar alarm business, fire alarm business, 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 that profession;
 - 5) Any person employed by a community association or cooperative corporation who is making home improvements within the person’s scope of employment at the residential or non-commercial property that is owned or leased by the community association or cooperative corporation;
 - 6) Any public utility as defined under N.J.S.A. 48:2-13;

- 7) Any person licensed as a home financing agency, a home repair contractor or a home repair salesman pursuant to N.J.S.A. 17:16C-77, provided that the person is acting within the scope of such license; and
- 8) Any home improvement retailer with a net worth of more than \$50,000,000 or any employee of such home improvement retailer who is making or selling such home improvements within the person's scope of employment of the home improvement retailer; and
- 9) Any person holding a valid registration as a home elevation contractor pursuant to N.J.A.C. 13:45A-17A.3; provided that if the person's home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, the person shall register as a home improvement contractor prior to engaging in the business of making or selling home improvements unless the person qualifies for exemption from registration pursuant to (a)1 through 8 above.

13:45A-17.5 INITIAL AND RENEWAL APPLICATIONS

- a) Each home improvement contractor required to be registered under this subchapter shall initially register with the Division by submitting the following on forms provided by the Director:
 - 1) The name and street address of each place of business of the home improvement contractor and any fictitious or trade name to be used by the home improvement contractor;
 - 2) The type of business organization;
 - 3) The name, residence and business street address of each officer, director, principal and person with an ownership interest of 10 percent or more in the home improvement contractor business, including the percentage of ownership held;
 - 4) The name and number of any professional or occupational license, certificate or registration issued by this State or any other governmental entity to any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business;
 - 5) Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has been adjudged liable in an administrative or civil action involving any of the situations in (a)5i through vi below. For the purposes of this paragraph, a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the entity,

officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business engaged in an unlawful practice or practices related to any of the named situations in (a)5i through vi below regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of a license, certification or registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any State or Federal agency. As described above, this paragraph covers the following situations:

- i) Obtained any registration, certification or license by fraud, deception or misrepresentation;
 - ii) Engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 - iii) Engaged in gross negligence, gross malpractice or gross incompetence;
 - iv) Engaged in acts of negligence, malpractice or incompetence involving selling or making a home improvement; and
 - v) Engaged in professional or occupational misconduct;
- 6) Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- 7) Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has had their authority to engage in the activity regulated by the Director revoked or suspended by any other state, agency or authority;
- 8) Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business has violated or failed to comply with the provisions of any act, regulation or order administered or issued by the Director;
- 9) Whether the entity, any officer, director, principal or person with an ownership interest of 10 percent or more in the home improvement contractor business believes they are unable to meet the requirements of the Contractors' Registration Act, N.J.S.A. 56:8-136

et seq. or rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety and welfare; and

- 10) The name and street address of an agent in the State of New Jersey for service of process.
- b) An application that is not completed because of the applicant's failure to cure a deficiency or to comply with the Director's request for additional information within six months from the date of the first deficiency notice or the date of the first written request for additional information shall be deemed to have been abandoned.
- c) In addition to the information required in (a) above, the applicant shall include the following with the initial application:
 - 1) A properly completed disclosure statement that complies with the requirements of N.J.A.C. 13:45A-17.6;
 - 2) Proof of the home improvement contractor's commercial general liability insurance policy in a minimum amount of \$500,000 per occurrence that complies with the requirements of N.J.A.C. 13:45A-17.12; and
 - 3) The initial registration fee in the amount specified in N.J.A.C. 13:45A-17.14.
- d) The first registration period that begins January 20, 2015, shall expire on March 31 of the following year. Thereafter, a registration period shall commence on April 1 of each year and end on the following March 31.
- e) A registered home improvement contractor shall include the following with the annual renewal application:
 - 1) A completed renewal application that will be on a form specified by the Director;
 - 2) Proof of the home improvement contractor's commercial general liability insurance policy in a minimum amount of \$500,000 per occurrence that complies with the requirements of N.J.A.C. 13:45A-17.12;
 - 3) The renewal registration fee in the amount specified in N.J.A.C. 13:45A-17.14; and

- 4) If the completed renewal application is received by the Division after the renewal application's due date as specified on the renewal application, the late fee in the amount specified in N.J.A.C. 13:45A-17.14.

13:45A-17.5A IDENTIFICATION BADGES

- a) On or after six months after the award of the contract for badge creation and other ancillary services related to the badges, each individual performing, engaging, or attempting to engage in the sale of home improvements, shall wear an identification badge on the upper left corner of the individual's torso in a plainly visible fashion. An individual shall not engage in the sale of home improvements until the individual has obtained and is wearing a valid identification badge.
- b) For the purpose of identifying those individuals who are required to obtain and wear an identification badge, each entity shall, upon registration, complete a badge declaration setting forth the name and address of residence of each individual who will perform, engage, or attempt to engage in the sales of home improvements on behalf of the entity. Access to the electronic form shall be available by logging on to the Division website. The name, address, and contact information for the State-authorized vendor or vendors issuing identification badges shall be posted on the Division website.
- c) An individual shall not be issued a badge unless:
 1. The registration of the entity with which the individual is associated is in good standing;
 2. The individual is listed on the entity's badge declaration, as supplemented and amended from time to time;
 3. The badge fee has been paid by the entity to the vendor; and
 4. The individual presents to the State-authorized vendor a form of government-issued photo identification containing the individual's current address of residence, which shall match the address listed on the entity's badge declaration.
- d) The Division, through the State-authorized vendor or vendors, shall issue an identification badge that shall be unalterable and shall include the following information:
 1. The name, color, photograph, and signature of the individual to whom the badge has been issued;
 2. The business name and registration number of the entity;

3. The badge's expiration date; and
 4. A clear and visible statement that the badge is not for an electrical contractor, plumbing contractor, or HVACR contractor.
- e) The badge shall be valid for two years. Each entity on whose behalf a badge has been issued shall apply for renewal of the badge at least 45 days prior to its expiration date, at which time the entity shall pay the badge renewal fee and shall obtain from the State-authorized vendor a new badge showing an updated photo and expiration date. An entity that permits an individual required to have a badge to work without a valid badge shall be deemed to be in violation of this subchapter within the meaning of N.J.A.C. 13:45A-17.9 and shall also be subject to the penalty provisions of N.J.S.A. 56:8-143.
- f) Identification badges are not transferable. Upon termination of an association between an entity and an individual to whom an identification badge was issued, the entity shall:
- 1) Inform the Division within three business days of the date of termination by logging on to the Division's website and amending the badge declaration; and
 - 2) Collect the individual's identification badge and surrender it to the State-authorized vendor for destruction within three business days of the date of termination. The address for surrender shall be set forth on the Division's website.
 - i. Failure of an entity to collect and timely surrender an identification badge shall be deemed to be a violation within the meaning of N.J.A.C. 13:45A-17.9.
- g) If an individual's badge is lost or stolen, or a badge holder has legally changed his or her name through marriage or court order, the entity with which the individual is associated shall, within three business days of the event, report the event to the Division by logging on to the Division's website and:
- 1) In the case of a name change, amend the badge declaration; or
 - 2) In the case of a lost or stolen badge, report the loss or theft.
 - i. In the case of a lost or stolen badge, the individual shall not perform, engage or attempt to engage in the sales of home improvements until the individual obtains and is wearing a new badge.
- h) An entity whose registration has been suspended or revoked, or has not been renewed shall, within three business days of that suspension, revocation, or nonrenewal, surrender all identification badges issued under the registration number of the entity to

the State-authorized vendor. The address for surrender shall be set forth on the Division's website. All surrendered badges shall be destroyed. Any subsequent reinstatement of registration shall require the issuance of a new badge.

13:45A-17.6 DISCLOSURE STATEMENT

a) Each applicant shall file a disclosure statement with the Director stating whether it or any of its officers, directors, principals or persons with an ownership interest of 10 percent or more in the home improvement contractor business has been convicted of any violations 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.A. 2C:5-1 or 2C:5-2 (conspiracy), N.J.S.A. 2C:11-2 (criminal homicide), N.J.S.A. 2C:11-3 (murder), N.J.S.A. 2C:11-4 (manslaughter), N.J.S.A. 2C:12-1 (assault), N.J.S.A. 2C:12-3 (terroristic threats), N.J.S.A. 2C: 13-1 (kidnapping), N.J.S.A. 2C:14-2 (sexual assault), subsection a. or b. of N.J.S.A. 2C:17-1 (arson and related offenses), subsection a. or b. of N.J.S.A. 2C:17-2 (causing or risking widespread injury or damage), N.J.S.A. 2C: 15-1 (robbery), N.J.S.A. 2C:18-2 (burglary), N.J.S.A. 2C:20-4 (theft by deception), N.J.S.A. 2C:20-5 (theft by extortion), N.J.S.A. 2C:20-7 (receiving stolen property), N.J.S.A. 2C:20-9 (theft by failure to make required disposition of property received), N.J.S.A. 2C:21-2 (criminal simulation), N.J.S.A. 2C:21-2.1 (fraud relating to driver's license or other document issued by governmental agency to verify identity or age; simulation), N.J.S.A. 2C:21-2.3 (fraud relating to motor vehicle insurance identification card; production or sale), N.J.S.A. 2C:21-3 (frauds relating to public records and recordable instruments), N.J.S.A. 2C:21-4 (falsifying or tampering with records), N.J.S.A. 2C:21-6 (fraud relating to credit cards), N.J.S.A. 2C:21-7 (deceptive business practices), N.J.S.A. 2C:21-12 (defrauding secured creditors), N.J.S.A. 2C:21-14 (receiving deposits in a failing financial institution), N.J.S.A. 2C:21-15 (misapplication of entrusted property and property of government of financial institution), N.J.S.A. 2C:21-19 (wrongful credit practices and related offenses), N.J.S.A. 2C:27-2 (bribery in official and political matters), N.J.S.A. 2C:27-3 (threats and other improper influence in official and political matters), N.J.S.A. 2C:27-5 (retaliation for past official action), N.J.S.A. 2C:27-9 (public servant transacting business with certain persons), N.J.S.A. 2C:27-10 (acceptance or receipt of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:27-11 (offer of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:28-1 (perjury), N.J.S.A. 2C:28-2 (false swearing), N.J.S.A. 2C:28-3 (unsworn falsification to authorities), N.J.S.A. 2C:28-4 (false reports to law enforcement officials), N.J.S.A. 2C:28-5 (tampering with witnesses and informants;

retaliation against them), N.J.S.A. 2C:28-6 (tampering with or fabricating physical evidence), N.J.S.A. 2C:28-7 (tampering with public records or information), N.J.S.A. 2C:28-8 (impersonating a public servant or law enforcement officer), N.J.S.A. 2C:30-2 (official misconduct), N.J.S.A. 2C:30-3 (speculating or wagering on official action or information), N.J.S.A. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance), N.J.S.A. 2C:35-10 (possession, use or being under the influence or failure to make lawful disposition of a controlled dangerous substance), N.J.S.A. 2C:37-2 (promoting gambling), N.J.S.A. 2C:37-3 (possession of gambling records), or N.J.S.A. 2C:37-4 (maintenance of a gambling resort).

13:45A-17.7 DUTY TO UPDATE INFORMATION

- a) Whenever any information required to be included in the application changes, or if additional information should be added after the filing of the application, the applicant or registered home improvement contractor, as appropriate, shall provide that information to the Director, in writing, within 20 calendar days of the change or addition. Whenever any other information filed with the Director pursuant to the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., or this subchapter has changed, the applicant or registered home improvement contractor, as appropriate, shall provide that information to the Director, in writing, within 20 calendar days of the change or addition.
- b) Whenever any 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 or registered home improvement contractor, as appropriate, shall provide that information to the Director, in writing, within 30 calendar days of the change or addition.
- c) Whenever there is a deletion or addition to the list of individuals required to wear identification badges pursuant to N.J.A.C. 13:45A-17.5A, the entity shall inform the Division within three business days of the deletion or addition by logging on to the Division's website and amending the badge declaration. Any additions to the list shall be accompanied by the badge fee. Any individual added to the entity's list of individuals required to wear a badge shall not perform, engage, or attempt to engage in the sales of home improvements on behalf of the entity until the individual has obtained and is wearing a badge.

13:45A-17.8 REQUIREMENT TO COOPERATE

Home improvement contractor applicants seeking to register with the Division and registered home improvement contractors shall have the continuing duty to provide any assistance or information; to produce any records requested by the Director; and to cooperate in any inquiry, investigation or hearing conducted by the Director.

13:45A-17.9 REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF REGISTRATION; HEARING; OTHER SANCTIONS

- a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its officers, directors, principals or persons with an ownership interest of 10 percent or more in the home improvement contractor business:
- 1) Has obtained any registration, certification or license by 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 involving selling or making a home improvement;
 - 5) Has engaged in professional or occupational misconduct;
 - 6) Has been adjudged liable in an administrative or civil action involving any finding or admission which would provide a basis for discipline pursuant to (a)1 through 5 above regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of a license, certification or registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any State or Federal agency;
 - 7) Has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
 - 8) Has had his or her 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;
 - 9) Has failed to comply with the badge requirements set forth in N.J.A.C. 13:45A-17.5A. It shall be an affirmative defense to a charge of failing to return a badge to the State-authorized vendor that the entity used its best efforts to collect and surrender the badge;

- 10) Has violated or failed to comply with N.J.S.A. 56:8-136 et seq. or any provision of this subchapter or the provisions of any act, regulation or order administered or issued by the Director; or
 - 11) Is unable to meet the requirements of the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., or rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety and welfare.
- b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17.5 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17.6 may be used by the Director as grounds for denying, suspending or revoking a registration. An applicant whose registration is denied or a home improvement contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension or revocation which shall contain the basis for such action. In any matter in which the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that Act.
 - c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home improvement contractor registration or assessing a penalty, the Director shall notify the applicant or registrant and provide an opportunity to be heard.
 - d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.
 - e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

13:45A-17.10 REINSTATEMENT OF SUSPENDED REGISTRATION

A registration that is suspended by the Director may be reinstated upon the contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17.14. If a suspended registration is reinstated, all individuals associated with the reinstated entity required to wear badges pursuant to N.J.A.C. 13:45A-17.5A shall obtain new badges.

13:45A-17.11 OWNERSHIP AND USE OF REGISTRATION NUMBER; REPLACEMENT AND DUPLICATE CERTIFICATES

- a) Each registration number and certificate containing such registration number issued by the Director to a home improvement contractor remain the property of the State of New Jersey. If the Director suspends, fails to renew, or revokes a registration, the home improvement contractor shall immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising and anything else on which the registration number is displayed or otherwise communicated.
- b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in N.J.A.C. 13:45A-17.14 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.
- c) The Director shall issue a duplicate certificate to a registered contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17.14 and receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the contractor must display a certificate. A registered contractor may not possess more registration certificates than the number of places of business utilized by the contractor.
- d) A registered home improvement contractor shall prominently display:
 - 1) The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and
 - 2) The contractor's registration number on all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State.
- e) All commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home improvements, except for vehicles leased or owned by a registrant to a customer of that registrant, shall be marked on both sides with the following information:
 - 1) The name of the registered home improvement contractor in lettering at least one inch in height; and
 - 2) "HIC reg. #" followed by the registration number of the registrant in lettering at one inch in height.

- f) Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to (b) of N.J.S.A. 56:8-149 and shall be displayed in all caps in at least 10-point boldface type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

13:45A-17.12 MANDATORY COMMERCIAL GENERAL LIABILITY INSURANCE

- a) Every registered home improvement contractor shall secure and maintain in full force and effect during the entire term of registration a commercial general liability insurance policy and shall file with the Director proof that such insurance is in full force and effect.
- b) The insurance policy required to be filed with the Director shall be a commercial general liability insurance policy, occurrence form, and shall provide a minimum coverage in the amount of \$500,000 per occurrence. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is canceled 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 (a) above before the former policy is no longer effective.
- c) The proof of insurance required by (a) above shall be a certificate provided by the insurer containing the insured's name, business street address, policy number, term of the insurance, and information assuring that the policy conforms with (b) above.
- d) A home improvement contractor who either does not renew or otherwise changes the contractor's commercial general liability policy shall submit a copy of the certificate of commercial general liability insurance for the new policy before the former policy is no longer effective.

13:45A-17.13 REQUIREMENTS OF CERTAIN HOME IMPROVEMENT CONTRACTS

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home improvement contract in which a person required to be registered as a home improvement contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

13:45A-17.14 FEES

- e) The Division shall charge the following non-refundable home improvement contractor registration fees:

- 1) Initial registration fee \$110.00;

- 2) Renewal registration fee \$90.00;
- 3) Late fee \$25.00;
- 4) Reinstatement fee..... \$50.00;
- 5) Replacement or duplicate certificate fee \$20.00.

SUBCHAPTER 17A HOME ELEVATION CONTRACTOR REGISTRATION

13:45A-17A.1 PURPOSE AND SCOPE

- a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as amended by P.L. 2004, c. 16, P.L. 2013, c. 144, and P.L. 2014, c. 34 (the “Act”) by providing procedures for the regulation of home elevation contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division’s registration procedures for home elevation contractors.
- b) These rules shall apply to home elevation contractors in this State.

13:45A-17A.2 DEFINITIONS

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Advertise” means to communicate to the public by means of any print, electronic, or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer, or the Internet. “Advertise” includes having a person’s name in a classified advertisement or directory in this State under any classification of home improvement or home elevation as defined in this section, but does not include simple residential alphabetical listings in standard or Internet telephone directories.

“Badge declaration” means the electronic form that a registered entity must complete, as set forth in N.J.A.C. 13:45A-17A.14(b), which identifies individuals performing, engaging, or attempting to engage in the sale of home elevations or home improvements.

“Director” means the Director of the Division of Consumer Affairs.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Employee” means an employee as defined in N.J.A.C. 18:35-7.1.

“Entity” means the business registered or to be registered as a home elevation contractor.

“Home elevation” means a home improvement consisting of lifting a home off a slab or existing foundation system and setting it back down on a new foundation or piers, posts, columns, or pilings.

“Home elevation contract” means a home improvement contract for a home elevation.

“Home elevation contractor” means a person engaged in the business of making or selling home elevations and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

“Home improvement” means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or non-commercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, home elevation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or non-commercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or non-commercial property and includes any of the above activities performed under emergency conditions. The term does not apply to any work required to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor.

“Home improvement contract” means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or non-commercial property, or a contractor and a tenant or lessee of residential or non-commercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such 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.

“Home improvement contractor” means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

“Residential or non-commercial property” means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

“Sale of home improvements” means any action taken by or on behalf of an entity with the goal of entering into a contract with a consumer for the performance of a home improvement, including a home elevation, which includes, but is not limited to: initial contact with the consumer; taking measurements; presenting estimates for the cost of a home elevation or other home improvement; and entering into the contract with the consumer for the completion of the home improvement or home elevation or both. “Staff” means an employee or an individual who is engaged pursuant to a written agreement to provide consulting services to the home elevation contractor.

“State authorized vendor or vendors” means the business or businesses with which the State has contracted to act on behalf of the Director for the issuance and management of home improvement and home elevation contractor identification badges.

13:45A-17A.3 REGISTRATION REQUIRED

- a) On or after October 1, 2014, no person shall engage in the business of making or selling home elevations in this State unless registered with the Division in accordance with this subchapter, except as provided in (a)1 below:
 1. If a home improvement contractor has entered into a contract with a consumer to perform home elevation services, prior to October 1, 2014, and the contractor maintains written proof that the consumer has been apprised of the requirements that became effective October 1, 2014, including those required at N.J.A.C. 13:45A-17A.4 (b) and 17A.11(b) which will be implemented on June 17, 2015, and has knowingly elected to proceed under the terms of that contract, the contractor will be deemed in compliance with this subchapter.
- b) No person shall advertise indicating that the person is a home elevation contractor in this State unless the person is registered with the Division in accordance with this subchapter.

- c) Any person registered as a home improvement contractor wishing to perform home elevations shall convert his or her home improvement registration into a home elevation registration at no additional fee by completing a home elevation contractor application. The initial term of such home elevation registration shall be the unexpired term of the home improvement registration that was converted.
- d) A person registered as a home elevation contractor shall be exempt from the requirement to register as a home improvement contractor pursuant to N.J.A.C. 13:45A-17.3(a)9; provided that if a person's home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, such person shall register as a home improvement contractor under N.J.A.C. 13:45A-17.3 prior to engaging in the business of making or selling home improvements and shall obtain a new badge identifying the person as a home improvement contractor.
- e) Contractors that hire sub-contractors to make home elevations, but do not themselves perform home elevations, shall not be required to register as a home elevation contractor with the Division in accordance with this subchapter.
- f) Officers and employees of a registered home elevation contractor shall not be required to register separately from the registered business entity provided that the officers and employees sell or make home elevations within their respective scopes of employment for that registered business entity.

13:45A-17A.4 INITIAL AND RENEWAL APPLICATIONS

- a) Home improvement contractors seeking to become registered under this subchapter shall apply to convert their registration to a home elevation contractor by submitting the following information in addition to that required by (c) and (d) below, on forms provided by the Director:
 - 1. A current and valid registration number;
 - 2. A certification that the applicant contractor currently has, in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment and describing such experience; and
 - 3. Proof of the home elevation contractor's insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11 (a)1.

b) Home elevation contractors who have converted their HIC registrations under (a) above, and those who have initially registered after October 1, 2014, under (c) below, no later than June 17, 2015, shall submit the following on forms provided by the Director:

1. Proof of the home elevation contractor's insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11 (b);

2. A letter from a surety company authorized to do business in the State, addressed to the Division, to the effect that the applicant has a bonding capacity of at least \$500,000; and

3. A list of three references, complete with contact information, for whom the experienced individual in an ownership or staff position in the home elevation contractor has elevated a residential or non-commercial structure within the past five years.

c) Applicants seeking to engage in home elevations who do not have a current and valid registration as a home improvement contractor shall apply for initial registration with the Division by submitting the following on forms provided by the Director:

1. The name and street address of each place of business of the home elevation contractor and any fictitious or trade name to be used by the home elevation contractor;

2. The type of business organization;

3. The name, residence, and business street address of each officer, director, principal, and person with an ownership interest of 10 percent or more in the entity, including the percentage of ownership held;

4. The name and number of any professional or occupational license, certificate, or registration issued by this State or any other governmental entity to any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity;

5. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has been adjudged liable in an administrative or civil action involving any of the situations in (c)5i through v below either as a home improvement contractor or a home elevation contractor. For the purposes of this paragraph, a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the entity, officer, director, principal, or person with an ownership interest of 10 percent or more in the entity engaged in an unlawful practice or practices related to any of the named situations in (c)5i through v below regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension, or revocation of a license, certification, or registration, consented to in an assurance of voluntary

compliance or any similar order or legal agreement with any state or Federal agency. As described above, this paragraph covers the following situations:

- i. Obtaining any registration, certification, or license by fraud, deception, or misrepresentation;
- ii. Engaging in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;
- iii. Engaging in gross negligence, gross malpractice, or gross incompetence;
- iv. Engaging in acts of negligence, malpractice, or incompetence involving selling or making a home elevation or home improvement; or
- v. Engaging in professional or occupational misconduct;

6. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home elevations or other home improvements in any state or Federal proceeding. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere, or any other such disposition of alleged criminal activity shall be deemed a conviction;

7. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has had its authority to engage in the activity regulated by the Director revoked or suspended by any other state agency or authority;

8. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity has violated or failed to comply with the provisions of any act, regulation, or order administered or issued by the Director;

9. Whether the entity, any officer, director, principal, or person with an ownership interest of 10 percent or more in the entity believes it, he, or she is unable to meet the requirements of the Act (N.J.S.A. 56:8-136 et seq.) or rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety, and welfare;

10. The name and street address of an agent in the State of New Jersey for service of process; and

11. A certification that the applicant currently has, in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment and describing such experience.
- d) In addition to the information required in (c) above, the applicant shall include the following with the initial application:
1. A properly completed disclosure statement that complies with the requirements of N.J.A.C. 13:45A-17A.5;
 2. Proof of the applicant's insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1 or (b) as applicable;
 3. When applicable, a letter from a surety company authorized to do business in the State, addressed to the Division, to the effect that the applicant has a bonding capacity of at least \$500,000;
 4. The initial registration fee in the amount specified in N.J.A.C. 13:45A-17A.13 unless not required pursuant to N.J.A.C. 13:45A-17A.3(c); and
 5. A list of three references, complete with contact information, for whom the experienced individual in an ownership or staff position in the applicant has elevated a residential or non-commercial structure within the past five years.
- e) An application that is not completed because of the applicant's failure to cure a deficiency or to comply with the Director's request for additional information within two years from the date of the last deficiency notice or the date of the last written request for additional information shall be deemed to have been abandoned.
- f) A registered home elevation contractor shall include the following with the annual renewal application:
1. A completed renewal application on a form provided by the Director;
 2. Proof of the home elevation contractor's insurance coverage in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1;
 3. A letter from a surety company authorized to do business in New Jersey and addressed to the Division to the effect that the applicant has a bonding capacity of at least \$500,000, and

stating the amount of bonds required by N.J.A.C. 13:45A-17A.11(a)2 that the applicant has outstanding;

4. The renewal registration fee in the amount specified in N.J.A.C. 13:45A-17A.13; and

5. If the completed renewal application is received by the Division after the renewal application's due date as specified on the renewal application, the late fee in the amount specified in N.J.A.C. 13:45A-17A.13.

- g) A home elevation contractor shall, at all times throughout the registration term, have at least one named person in an ownership or staff position with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment. If at any time, there is no such person in management or on staff, the home elevation contractor shall notify the Division, in writing, within three calendar days.
- h) The first registration period shall expire on March 31, 2016. Thereafter, a registration period shall commence on April 1 of each year and end on the following March 31.

13:45A-17A.5 DISCLOSURE STATEMENT

- a) Each applicant for initial registration shall file a disclosure statement with the Director stating whether it or any of its officers, directors, principals, or persons with an ownership interest of 10 percent or more in the home elevation contractor business has been convicted of any violations 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.A. 2C:5-1 or 2C:5-2 (conspiracy), N.J.S.A. 2C:11-2 (criminal homicide), N.J.S.A. 2C:11-3 (murder), N.J.S.A. 2C:11-4 (manslaughter), N.J.S.A. 2C:12-1 (assault), N.J.S.A. 2C:12-3 (terroristic threats), N.J.S.A. 2C:13-1 (kidnapping), N.J.S.A. 2C:14-2 (sexual assault), subsection a. or b. of N.J.S.A. 2C:17-1 (arson and related offenses), subsection a. or b. of N.J.S.A. 2C:17-2 (causing or risking widespread injury or damage), N.J.S.A. 2C:15-1 (robbery), N.J.S.A. 2C:18-2 (burglary), N.J.S.A. 2C:20-4 (theft by deception), N.J.S.A. 2C:20-5 (theft by extortion), N.J.S.A. 2C:20-7 (receiving stolen property), N.J.S.A. 2C:20-9 (theft by failure to make required disposition of property received), N.J.S.A. 2C:21-2 (criminal simulation), N.J.S.A. 2C:21-2.1 (fraud relating to driver's license or other document issued by governmental agency to verify identity or age);

simulation), N.J.S.A. 2C:21-2.3 (fraud relating to motor vehicle insurance identification card; production or sale), N.J.S.A. 2C:21-3 (frauds relating to public records and recordable instruments), N.J.S.A. 2C:21-4 (falsifying or tampering with records), N.J.S.A. 2C:21-6 (fraud relating to credit cards), N.J.S.A. 2C:21-7 (deceptive business practices), N.J.S.A. 2C:21-12 (defrauding secured creditors), N.J.S.A. 2C:21-14 (receiving deposits in a failing financial institution), N.J.S.A. 2C:21-15 (misapplication of entrusted property and property of government of financial institution), N.J.S.A. 2C:21-19 (wrongful credit practices and related offenses), N.J.S.A. 2C:27-2 (bribery in official and political matters), N.J.S.A. 2C:27-3 (threats and other improper influence in official and political matters), N.J.S.A. 2C:27-5 (retaliation for past official action), N.J.S.A. 2C:27-9 (public servant transacting business with certain persons), N.J.S.A. 2C:27-10 (acceptance or receipt of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:27-11 (offer of unlawful benefit by public servant for official behavior), N.J.S.A. 2C:28-1 (perjury), N.J.S.A. 2C:28-2 (false swearing), N.J.S.A. 2C:28-3 (unsworn falsification to authorities), N.J.S.A. 2C:28-4 (false reports to law enforcement officials), N.J.S.A. 2C:28-5 (tampering with witnesses and informants; retaliation against them), N.J.S.A. 2C:28-6 (tampering with or fabricating physical evidence), N.J.S.A. 2C:28-7 (tampering with public records or information), N.J.S.A. 2C:28-8 (impersonating a public servant or law enforcement officer), N.J.S.A. 2C:30-2 (official misconduct), N.J.S.A. 2C:30-3 (speculating or wagering on official action or information), N.J.S.A. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance), N.J.S.A. 2C:35-10 (possession, use or being under the influence or failure to make lawful disposition of a controlled dangerous substance), N.J.S.A. 2C:37-2 (promoting gambling), N.J.S.A. 2C:37-3 (possession of gambling records), or N.J.S.A. 2C:37-4 (maintenance of a gambling resort).

13:45A-17A.6 DUTY TO UPDATE INFORMATION

- a) Whenever any information required to be included in the application changes, including, but not limited to, a change to the certification required under N.J.A.C. 13:45A-17A.4(c)11, or if additional information should be added after the filing of the application, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition. Whenever any other information filed with the Director pursuant to the Act (N.J.S.A. 56:8-136 et seq.) or this subchapter has changed, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition.
- b) Whenever any 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 or registered home elevation contractor, as appropriate, shall provide that information to the Director, in writing, within 30 calendar days of the change or addition.
- c) Whenever there is a deletion or addition to the list of individuals required to wear identification badges pursuant to N.J.A.C. 13:45A-17A.14, the registered home elevation contractor shall inform the Division within three business days of the deletion or addition by

logging on to the Division's website and amending the badge declaration. Any additions to the list shall be accompanied by the badge fee. Any individual added to the entity's list of individuals required to wear a badge shall not perform, engage, or attempt to engage in the face-to-face sales of home elevations on behalf of the entity at a location or locations in this State other than the business location or locations disclosed by the entity pursuant to N.J.A.C. 13:45A-17A.4(c) until the individual has obtained and is wearing a badge.

- d) If, at any time, a home elevation contractor no longer has in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, the home elevation contractor shall notify the Division, in writing, within three calendar days.

13:45A-17A.7 REQUIREMENT TO COOPERATE

Home elevation contractor applicants seeking to register with the Division and registered home elevation contractors shall have the continuing duty to provide any assistance or information; to produce any records requested by the Director; and to cooperate in any inquiry, investigation, or hearing conducted by the Director.

13:45A-17A.8 REFUSAL TO ISSUE, SUSPENSION, OR REVOCATION OF REGISTRATION; HEARING; OTHER SANCTIONS

- a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its officers, directors, principals, or persons with an ownership interest of 10 percent or more in the entity:
1. Has obtained any registration, certification, or license by 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 involving selling or making a home elevation or other home improvement;
 5. Has engaged in professional or occupational misconduct;
 6. Has been adjudged liable in an administrative or civil action involving any finding or admission which would provide a basis for discipline pursuant to (a)1 through 5 above, regardless of whether that finding was made in the context of an injunction; a proceeding

resulting in the denial, suspension, or revocation of a license, certification, or registration; consented to in an assurance of voluntary compliance; or any similar order or legal agreement with any state or Federal agency;

7. Has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home elevations or home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere, or any other such disposition of alleged criminal activity shall be deemed a conviction;

8. Has had his or her authority to engage in the activity regulated by the Director revoked or suspended by any other state or Federal agency or authority for reasons consistent with this section;

9. Has failed to comply with the badge requirements set forth in N.J.A.C. 13:45A-17A.14. It shall be an affirmative defense to a charge of failing to return a badge to the State authorized vendor that the entity used its best efforts to collect and surrender the badge;

10. Has failed to update information as required by N.J.A.C. 13:45A-17A.6;

11. Has violated or failed to comply with the Act (N.J.S.A. 56:8-136 et seq.) or any provision of this subchapter or the provisions of any act, regulation, or order administered or issued by the Director;

12. No longer has at least one named person with the experience required in N.J.A.C. 13:45A-17A.4(g) in an ownership or staff position; or

13. Is unable to meet the requirements of the Act (N.J.S.A. 56:8-136 et seq.) or any rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety, and welfare.

- b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17A.4 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17A.5 may be used by the Director as grounds for denying, suspending, or revoking a registration. An applicant whose registration is denied or a home elevation contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension, or revocation, which shall contain the basis for such action. In any matter in which the provisions of the Rehabilitated

Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that act.

- c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home elevation contractor registration, assessing a penalty, or other sanction, the Director shall notify the applicant or registrant and provide an opportunity to be heard.
- d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.
- e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution, or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

13:45A-17A.9 REINSTATEMENT OF SUSPENDED REGISTRATION

A registration that is suspended by the Director may be reinstated upon the home elevation contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties, and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17A.13. If a suspended registration is reinstated, all individuals associated with the reinstated entity required to wear badges pursuant to N.J.A.C. 13:45A-17A.14 shall obtain new badges.

13:45A-17A.10 OWNERSHIP AND USE OF REGISTRATION NUMBER; REPLACEMENT AND DUPLICATE CERTIFICATES

- a) Each registration number and certificate containing such registration number issued by the Director to a home elevation contractor shall remain the property of the State of New Jersey. If the Director suspends, refuses to renew, or revokes a registration, the home elevation contractor shall immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising, and anything else on which the registration number is displayed or otherwise communicated.
- b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated, or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.
- c) The Director shall issue a duplicate certificate to a registered home elevation contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17A.13 and

receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the home elevation contractor must display a certificate. A registered home elevation contractor may not possess more registration certificates than the number of places of business utilized by the home elevation contractor.

- d) A registered home elevation contractor shall prominently display:
1. The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and
 2. The home elevation contractor's registration number on all advertisements distributed within this State, on business documents and contracts, and on correspondence with consumers of home elevation services in this State.
- e) All commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home elevations, except for vehicles leased or rented by a registrant to a customer of that registrant, shall be marked on both sides with the following information:
1. The name of the registered home elevation contractor in lettering at least one inch in height; and
 2. The home elevation contractor registration number of the registrant in lettering at least one inch in height.
- f) Any invoice, contract, or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to N.J.S.A. 56:8-149.b, which shall be displayed in all caps in at least 10-point boldface type as follows: **FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.**

13:45A-17A.11 MANDATORY INSURANCE AND BONDING

- a) As of October 1, 2014, every registered home improvement contractor seeking to become registered as a home elevation contractor shall secure and maintain in full force and effect during the entire term of registration insurance in the amount of \$1 million per occurrence, over and above the \$500,000 required for registration as a home improvement contractor, of a type covering home elevation activities to cover damages or other losses to the homeowner, lessee, tenant, or other party resulting from the home elevation.

b) No later than June 17, 2015, every registered home elevation contractor or applicant seeking to become registered as a home elevation contractor shall secure and maintain in full force and effect during the entire term of registration:

1. Cargo, structural movers cargo, builders risk, riggers liability, care custody and control, or any other insurance policies that together are broad enough to cover the following risk of loss to the homeowner's dwelling, other structures, and personal property during the contracted elevation operations: perils typically insured under a "special form" homeowners policy, including damage caused by the negligence of the contractor and its subcontractors. Certificates of insurance for these policies shall be provided to the homeowner. Policies covering the risks identified below shall be maintained in the stated amounts per occurrence with the minimum aggregate amounts:

i. Cargo insurance, or other policy insuring the homeowner's, lessor's, or tenant's personal property located in the dwelling and other structures being lifted, shall provide minimum coverage in the amount of \$50,000 per occurrence, with a minimum aggregate amount of \$200,000;

ii. Riggers or care custody or control insurance, or other policy insuring the dwelling and other structures being lifted, shall provide minimum coverage in the amount of \$500,000 per occurrence, with a minimum aggregate amount of \$2,000,000;

iii. Policies insuring the dwelling and other structures being lifted, and the homeowner's, lessor's, or tenant's personal property located in them, for damage unrelated to the legal liability of the contractor shall provide minimum coverage in the amount of \$500,000 per occurrence, with a minimum aggregate in the amount of \$2,000,000;

iv. Commercial general liability insurance, having a minimum coverage amount of \$1,000,000 per occurrence (including the \$500,000 of coverage required for all home improvement contractors), with an aggregate limit of \$2,000,000; and

v. Commercial auto liability insurance having a minimum coverage amount of \$1,000,000 per occurrence;

2. Bonding capacity of at least \$500,000 and outstanding payment and performance bonds in an amount at least equal to the value of all active home elevation contracts. A performance and payment surety bond or bonds in favor of the homeowner in the minimum amount of the value of each home elevation contract for the duration of the project, the signed original of the bond or bonds shall be provided to the homeowner; and

3. Any other insurance required by law or regulations, including, but not limited to, workers compensation insurance.

- c) Insurance and surety bonds shall be obtained from insurers and surety companies licensed to do business in the State of New Jersey with an A.M. Best’s rating of not less than A-.
- d) The Division shall be a certificate holder on all insurance policies, and as such, shall be issued a certificate(s) of insurance which shall contain the insured’s name, business street address, policy number, term of the insurance, and coverage information. The certificate must state affirmatively the following: “This policy is applicable to the home elevation operations of the insured.” A copy of the insurance policy or policies together with the declaration page indicating the limits of liability shall be attached to the certificate. The issuer shall provide the Division with written notice of cancellation or non-renewal within 10 days of the cancellation or non-renewal of any such insurance policies.
- e)) Every registered contractor engaged in home elevation whose insurance policies are canceled, not renewed, or changed shall submit to the Director copies of the certificates of insurance for new or replacement policies which meet the requirements of (b)1 and 2 above, before the former policies are no longer effective.

13:45A-17A.13 FEES

- a) The Division shall charge the following non-refundable home elevation contractor registration fees:
 - 1) Initial registration fee \$110.00;
 - 2) Renewal registration fee \$90.00;
 - 3) Late fee \$25.00;
 - 4) Reinstatement fee..... \$50.00;
 - 5) Replacement or duplicate certificate fee \$20.00.

13:45A-17A.14 IDENTIFICATION BADGES

- a) On or after six months after the award of the contract for badge creation and other ancillary services related to the badges, each individual performing, engaging, or attempting to engage in the sale of home elevations or home improvements shall wear an identification badge on the upper left corner of the individual’s torso in a plainly visible

fashion. An individual shall not engage in the sale of home improvements or elevations until the individual has obtained and is wearing a valid identification badge.

- b) For the purpose of identifying those individuals who are required to obtain and wear an identification badge, each entity shall, upon registration, complete a badge declaration setting forth the name and address of residence of each individual who will perform, engage, or attempt to engage in the sales of home elevations or home improvements on behalf of the entity. Access to the electronic form shall be available by logging on to the Division website. The name, address, and contact information for the State-authorized vendor or vendors issuing identification badges shall be posted on the Division website.
- c) An individual shall not be issued a badge unless:
 - 1. The registration of the entity with which the individual is associated is in good standing;
 - 2. The individual is listed on the entity's badge declaration, as supplemented and amended from time to time;
 - 3. The badge fee has been paid by the entity to the vendor; and
 - 4. The individual presents to the State-authorized vendor a form of government-issued photo identification containing the individual's current address of residence, which shall match the address listed on the entity's badge declaration.
- d) The Division, through the State-authorized vendor or vendors, shall issue an identification badge that shall be unalterable and shall include the following information:
 - 1. The name, color, photograph, and signature of the individual to whom the badge has been issued;
 - 2. The business name and registration number of the entity;
 - 3. The badge's expiration date; and
 - 4. A clear and visible statement that the badge is for a home elevation and home improvement contractor; and
 - 5. A clear and visible statement that the badge is not for an electrical contractor, plumbing contractor, or HVACR contractor.

- e) The badge shall be valid for two years. Each entity on whose behalf a badge has been issued shall apply for renewal of the badge at least 45 days prior to its expiration date, at which time the entity shall pay the badge renewal fee and shall obtain from the State-authorized vendor a new badge showing an updated photo and expiration date. An entity that permits an individual required to have a badge to work without a valid badge shall be deemed to be in violation of this subchapter within the meaning of N.J.A.C. 13:45A-17A.8 and shall also be subject to the penalty provisions of N.J.S.A. 56:8-143.
- f) Identification badges are not transferable. Upon termination of an association between an entity and an individual to whom an identification badge was issued, the entity shall:
- 1) Inform the Division within three business days of the date of termination by logging on to the Division's website and amending the badge declaration; and
 - 2) Collect the individual's identification badge and surrender it to the State-authorized vendor for destruction within three business days of the date of termination.
 - i. Failure of an entity to collect and timely surrender an identification badge shall be deemed to be a violation within the meaning of N.J.A.C. 13:45A-17A.8. The address for surrender shall be set forth on the Division's website.
- g) If an individual's badge is lost or stolen, or a badge holder has legally changed his or her name through marriage or court order, the entity with which the individual is associated shall, within three business days of the event, report the event to the Division by logging on to the Division's website and:
- 1) In the case of a name change, amend the badge declaration; or
 - 2) In the case of a lost or stolen badge, report the loss or theft.
 - i. In the case of a lost or stolen badge, the individual shall not perform, engage or attempt to engage in the sales of home elevations or home improvements on behalf of the entity until the individual obtains and is wearing a new badge.
- h) An entity whose registration has been suspended or revoked, or has not been renewed shall, within three business days of that suspension, revocation, or nonrenewal, surrender all identification badges issued under the registration number of the entity to the State-authorized vendor. The address for surrender shall be set forth on the Division's website. All surrendered badges shall be destroyed. Any subsequent reinstatement of registration shall require the issuance of a new badge.