

## **The New Jersey “Contractors’ Registration Act”**

### **Frequently Asked Questions**

**Notice:** *The following questions and answers are intended for the convenience of contractors who may be required to register under this Act. This should not be considered a legal document nor a complete explanation of the law and should not be relied upon as such. The New Jersey Division of Consumer Affairs (“the Division”) recommends that you consult an attorney if you need legal advice.*

#### **1. What is the Contractors’ Registration Act?**

The “Contractors’ Registration Act” (the “Act”), which becomes effective November 9, 2004, establishes a mandatory registration program for contractors who are in the business of selling or making home improvements in New Jersey.

#### **2. What is a home improvement?**

Any remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of a structure used as a place of residence, or of any portion of the property on which the structure is located, is considered a home improvement for the purposes of the Act.

Home improvement includes 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, aluminum siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made to residential property. Construction of a new residence is not considered a home improvement under the Act.

#### **3. Who is a home improvement contractor?**

Any person, whether a sole proprietorship, partnership, corporation, limited liability company or any other type of business organization that is engaged in the business of selling or making home improvements is considered a home improvement contractor for the purposes of the Act.

#### **4. Who must register?**

The Act requires any contractor engaging in the business of making or selling home improvements, whether an individually owned business or a corporation, limited liability company, partnership, or association, to register annually with the Division, unless specifically exempted from registration under the Act.

#### **5. I am a landscaper and I only mow lawns and trim shrubs. Must I register?**

No. However, you must register if you plant flowers, shrubs and trees or lay sod or establish a lawn.

#### **6. What if I do not register?**

Any home improvement contractor who is required to register but does not register is prohibited from selling or making home improvements. Unregistered contractors who continue to sell or make home improvements may be subject to civil penalties and possibly criminal penalties as well.

#### **7. How does registration affect my ability to obtain construction permits?**

Municipalities are barred from issuing construction permits to an unregistered home improvement contractor who is required to register.

**8. What do I need to do to become registered?**

To become registered, a contractor must:

- Complete and submit an application on the form provided by the Division, including copies of all documents required;
- Complete the Disclosure Statement page of the application;
- File proof that it has secured and maintains a policy of commercial general liability insurance in a minimum amount of \$500,000 per occurrence that provides for notice to the Division prior to cancellation or non-renewal; and
- Pay a registration fee of \$90.

**9. How do I obtain a registration application?**

Application forms are available on line at the Division website (<http://www.njconsumeraffairs.com/contractor.htm>). Copies of the application form may be obtained by calling the Division at 1-888-656-6225 and are also available from construction officials in most municipalities.

**10. Is there a registration fee?**

Yes. The non-refundable registration fee is \$90 payable to the Division.

**11. What is the deadline to become registered?**

The deadline for registration is November 9, 2004. However, completed applications should be submitted as soon as possible, as processing may take several weeks.

**12. My home improvement contracting business has been in operation for many years. Is it “grandfathered,” or must it be registered?**

All home improvement contractors must register, unless they are exempt. There is no provision for grandfathering.

**13. Once I become registered, how long will my registration be valid?**

Initial registration is valid until February 6, 2006, after which it may be renewed for additional one-year periods by filing an application on a form to be provided by the Division.

**14. I only do home improvement jobs “on the side.” Do I still have to register?**

Yes. The Contractors’ Registration Act applies to any person, corporation, partnership or association engaging in the business of making or selling home improvements — regardless of whether the home improvements are done on a full-time or part-time basis.

**15. I work for a home improvement contractor. Do I have to register?**

Employees or officers of a registered home improvement contractor are not required to register with the Division separately as long as any home improvement work they are doing is done on behalf of the registered contractor. However, if the employee sells or makes home improvements “on the side” or separate and apart from the work he or she does for the registered contractor, that person must register with the Division separately.

**16. I am a subcontractor of a home improvement retailer that has a net worth of more than \$50,000,000. Do I have to register?**

Yes. A subcontractor of a home improvement retailer must register unless otherwise exempt. However, a home improvement retailer with a net worth of at least \$50,000,000 and employees of such a retailer who are making or selling home improvements within the scope of their employment are exempt from registration.

**17. I am a subcontractor, paid by the general contractor, and never enter into a contract with the consumer. Do I have to register?**

Yes, a subcontractor of a contractor must register.

**18. I am a retail merchant with a net worth under \$50,000,000 that sells retail products used in home improvements. Do I have to register?**

No. You are not required to register unless you also charge for the installation of those products. For example, X carpet store sells wall-to-wall carpet. X carpet store does not have to register. However, Y carpet store sells wall-to-wall carpet and Y store employees install the carpet. Y carpet store must register. Z carpet store sells wall-to-wall carpet and charges the customer for installation of the carpet. Z contracts with Joe Smith to install the carpet; Joe Smith is not an employee of Z carpet store. Both Z carpet store and Joe Smith must register.

**19. I plan to help my cousin remodel her house. Do I have to register?**

No. The registration requirements do not apply to any person performing a home improvement on a home he or she owns or that is owned by a member of his or her family.

**20. Do I have to register if I am improving a home belonging to a charity or a non-profit corporation?**

No. A person performing home improvement work on a residential property owned by a bona fide charity or other non-profit organization is not required to register.

**21. I work exclusively on commercial properties. Do I have to register?**

The Act applies only to residential or “non-commercial” units — single- or multi-family homes — or commercial properties that are being converted to residential or “non-commercial” units. The law does not apply to properties that are being used for commercial purposes.

**22. I am licensed as a home improvement contractor by a local town. Do I still have to register?**

Yes. The Act supersedes any municipal law or regulation that provides for the licensing or regulation of home improvement contractors. However, contractors must still obtain construction permits from the municipality in which they’re working and must submit to inspections by municipal construction code officials.

**23. Do people who handle maintenance for community associations or co-ops have to register?**

No. The Act exempts from the registration requirements individuals employed by a community association or cooperative corporation — commonly referred to as “handymen,” superintendents and/or maintenance workers — who make home improvements within the scope of their employment at the residential property owned or leased by the community association or cooperative corporation.

**24. Do architects, professional engineers, landscape architects, land surveyors, electrical contractors, master plumbers, locksmiths, burglar alarm businesses, fire alarm businesses, new home builders, or any other individuals or businesses that already hold licenses from the State of New Jersey have to register?**

No. As long as the licensee is acting within the scope of his or her profession, he or she is exempt from registration. For example, a new home builder does not have to register if it is constructing a new home, but must register if it is building an addition or renovating an existing structure.

**25. Does the law apply to out-of-state contractors?**

Any contractor who sells or makes improvements to homes or non-commercial properties in New Jersey must register with the Division — regardless of whether the contractor is based in New Jersey or some other state.

**26. Are there penalties for not registering?**

Any contractor who fails to register as required by the Contractors' Registration Act but who continues to sell or make home improvements or who violates any other section of the law is subject to civil monetary penalties of up to \$10,000 for the first offense and up to \$20,000 for each subsequent offense. Also, anyone who knowingly violates the Act is considered guilty of a crime of the fourth degree and faces additional fines as well as possible jail time.

**27. I was convicted of a crime in the past. Am I ineligible to become registered?**

Not necessarily. No individual will be disqualified from registration or have his or her registration revoked on the basis of any conviction if that person can demonstrate to the Division clear and convincing evidence of that person's rehabilitation. The Division, in determining whether someone has demonstrated rehabilitation, must consider the following:

- the nature and responsibility of the position the convicted individual would hold;
- the nature and seriousness of the offense;
- the circumstances under which the offense occurred;
- the date of the offense;
- the age of the individual when the offense was committed;
- whether the offense was an isolated or repeated incident;
- any social conditions which may have contributed to the offense; and
- any evidence of rehabilitation including, among other things, good conduct in prison or in the community, counseling or psychiatric treatment received.

**28. What are some other regulatory requirements under the Act?**

The Act requires home improvement contractors to:

- register annually with the Division;
- secure and maintain commercial general liability insurance of at least \$500,000 per occurrence, providing for notice to the Division prior to cancellation or non-renewal of the policy;
- use written contracts for home improvement jobs that cost more than \$500;
- inform consumers of their right to cancel contracts within three days of entering into the agreement; and
- prominently display their registration numbers within their places of business, in all advertisements, on business cards, on their commercial vehicles and on all business documents, including contracts.

**29. Is there a “cooling off” period for consumers who enter into agreements with contractors?**

The Act gives consumers three days to cancel a home improvement contract. The consumer must provide the contractor with a written notice of cancellation within three days of receipt of a copy of the contract. Within 30 days of receiving the written notice of cancellation, the contractor must refund to the consumer any money paid under the contract.

**30. Do I have to display my registration number?**

Yes. The Act requires contractors to prominently display their registration numbers within their places of business, in all advertisements, on business cards, on their commercial vehicles and on all business documents, including contracts.