

Home Improvement Consumer Protection Act

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In 2008, the Pennsylvania Legislature passed the Home Improvement Consumer Protection Act, 73P.S. § §§517.1 – 517.19 (Act 132 of 2008) which becomes effective July 1, 2009. The Act intends “to address the problems of home improvement contractors who take people’s money and leave town without doing the work.”¹ In 2007, statistics from Attorney General’s office revealed that complaints against home improvement contractors ranked seventh overall for complaints received from The Bureau of Consumer Protection and complaints filed by senior citizens ranked as fourth highest for complaints received from The Bureau of Consumer Protection.² The new law provides not only civil remedies to consumers, but gives the District Attorney and/or Attorney General the authority to investigate and institute criminal proceedings for violations of applicable sections of the act.

What does this mean to you? If you are a consumer, you will be able to check the registration of a home improvement contractor through the Office of Consumer Protection and be provided protections against fly-by-night contractors. If you are a reputable home improvement contractor, you can provide consumers with a level of trust and confidence. Unreputable contractors can be prosecuted.

The new law provides for the requirements of home improvement contracts and registration of certain contractors, prohibiting certain acts and providing for penalties. Following, find highlights of the Home Improvement Consumer Protection Act and a summary of the registration process.

Home Improvement Consumer Protection Act.

A “**Contractor**” is “any person who owns and operates a home improvement business or who undertakes, offers to undertake or agrees to perform any home improvement.”³ The term includes a “subcontractor or independent contractor who has contracted with a home improvement retailer, regardless of the retailer’s net worth, to provide home improvement services to the retailer’s customers.”³ The term does not include “a person for whom the total cash value of all that person’s home improvements is less than \$5,000.00 during the previous taxable year.”⁴

“**Home Improvement**” is defined in the Act as “repair, replacement, remodeling, demolition, removal, renovation, installation, alteration, conversion, modernization, improvement, rehabilitation or sandblasting”,⁵ . . . “[c]onstruction, replacement, installation or improvement of driveways, swimming pools, pool houses, porches, garages, roofs, siding, insulation, solar energy systems, security systems, flooring, patios, fences, gazebos, sheds, cabanas, [“..”] painting, doors and windows and water proofing⁶ [“...”], installation of central heating or air conditioning or storm windows or awnings”⁷ and

¹ Legislative Journal House, October 7, 2008 page 2199

² Legislative Journal House, October 8, 2008 page 2294

³ 73 P.S. §§517.2

⁴ 73 P.S. §§517.2 (2)

⁵ 73 P.S. §§517.2 (i)

⁶ 73 P.S. §§517.2 (ii)

the work done is in “connection with land or a portion of land adjacent to a private residence or a building or a portion of the building which is used or designated to be used as a private residence for which the total cash price of all work agreed upon between the contractor and the owner is more than \$500”⁸. Landscaping, unless excluded under Paragraph (2)(vi) of the Act, is also defined a “home improvement”⁶.

“Home Improvement Contract.” The Act defines this term as “an agreement between a contractor, subcontractor or salesperson and an owner for the performance of home improvement which includes all agreements for labor, services and materials to be furnished and performed under the contract.”³ Further requirements of the home improvement contract, in order to be valid or enforceable against the owner, include the following:

1. It is in writing and is legible and contains the home improvement contractor registration number of the performing contractor.
2. Is signed by the owner and the contractor.
3. The date of the transaction.
4. The name, address and telephone number of the contractor.
5. The approximate starting date and completion date.
6. Description of the work to be performed, materials to be used and set of specifications that cannot be changed without a written change order signed by the owner and contractor.
7. Total sales price.
8. The amount of the down payment plus any amount advanced for the purchase of special order materials.
9. The name, address and telephone number of all subcontractors known at the time of signing the contract.
10. Provision to maintain liability insurance and insurance covering property damage caused by the work of the home improvement contractor.
11. The toll free telephone number regarding public access to registration information.
12. A Notice of the Right of Rescission.

The contractor shall provide and deliver to the owner, without charge, a completed copy of the

⁷ 73 P.S. §§517.2 (iii)

⁸ 73 P.S. §§517.2 (1)

home improvement contract at the time the contract is executed, which shall contain all required notices.

“Home Improvement Fraud.”⁹ The Act also includes and defines offenses for home improvement fraud and the penalties if convicted under the offenses defined in this Act. It should be noted that where a person commits an offense under the home improvement fraud provisions of the Act and the victim is 60 years of age or older, the grading of the offense, if convicted, is one grade higher than if the victim is less than 60 years of age.

The Act also includes prohibited acts such as the failure to register as required by the Act and failure to refund the amount paid for home improvement if certain requirements specified in the Act are met. More specifically, for a “home improvement contract in which the total price is more than \$1,000.00”, [no person] shall receive a deposit in excess of [“...”] one-third of the home improvement contract price; or one-third of the home improvement contract price plus cost of special order materials that have been ordered.”¹⁰

Registration. The Act requires that any person holding out as a “contractor” or performing any “home improvement” must register with the Bureau of Consumer Protection.¹¹

Registration as a contractor can be completed by applying to the Bureau of Consumer Protection in writing or electronically via secured Internet connection. The website for the Attorney General is www.attorneygeneral.gov and the home improvement contract registration can be found on www.attorneygeneral.gov/hic.aspx. The website contains links to the application for registration as PDF document or a link to register on-line. It is our understanding that the registration number will be received immediately if the application is completed on-line. If the application is completed and mailed to the Pennsylvania Office of Attorney General, Bureau of Consumer Protection, the application will be reviewed by the office prior to receiving the registration number and it is anticipated that it will take several weeks. There is a \$50.00 non-refundable fee for each application and an additional processing fee if the registration is done on-line. The Attorney General is already accepting applications for registration and encourages any home contractor as defined by the Act to register as early as possible so that the contractor will be in compliance with the law on the effective date of July 1, 2009.

The registration number is required on a contractor’s advertisements, including business cards, advertising on vehicles, contracts, estimates and proposals with owners.

Renewals of the registration, as required by the Act, is on a biennial basis or every two years.

The information provided herein is a short synopsis of the information that is contained in the Home Improvement Consumer Protection Act. The Act requires very specific information in home improvement contracts, what constitutes home improvement and home improvement fraud and prohibited acts under the law. A violation of any provisions of the Home Improvement Act is deemed a violation under The Unfair Trade Practices and Consumer Protection Law.¹² Additionally, the Home

⁹ 73 P.S. §§517.8

¹⁰ 73 P.S. §§517.9 (10)

¹¹ 73 P.S. §§517.4

¹² December 17, 1968 (P.L. 1224, No. 387)

Improvement Act does not preclude an owner from exercising any rights provided under The Unfair Trade Practices and Consumer Protection Law.

If you are a consumer planning on contracting for home improvements, we urge you to call the Office of Consumer Protection to check the registration of the potential home contractor. The toll free number is 1-888-520-6680. Effective July 1, 2009, any contracts entered into after this date with a home improvement contractor which may be covered under the Act must comply with the Act. To assure your rights are protected, our attorneys would be glad to review any contract between the owner and the home improvement contractor prior to your execution of the contract.

If you are a home contractor or perform home improvements, the provisions under the Act may affect you and your business.

Our attorneys will be glad to review the requirements of this Act with you and how it relates to your business. **We can also prepare a home improvement contract specific to your business. Kindly be advised that the Act is effective as of July 1, 2009.** If you are not registered by this date, you will be prohibited from performing home improvements in Pennsylvania as of this date.

If you would like to discuss with one of our attorneys any aspects of the Act and how it specifically affects you, please call our office at 717-846-8846 and schedule a consultation.