

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 973** Session of
2009

INTRODUCED BY TOMLINSON AND BOSCOLA, JUNE 18, 2009

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, AS AMENDED, JUNE 23, 2009

AN ACT

1 Amending the act of October 17, 2008 (P.L.1645, No.132),
2 entitled "An act providing for the regulation of home
3 improvement contracts and for the registration of certain
4 contractors; prohibiting certain acts; and providing for
5 penalties," providing for the definition of "home improvement
6 retailer"; and further providing for procedures for
7 registration as a contractor and for prohibited acts.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of October 17, 2008
11 (P.L.1645, No.132), known as the Home Improvement Consumer
12 Protection Act, is amended by adding a definition to read:

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 * * *

18 "Home improvement retailer." A person, whether or not the
19 person is registered under this act, who sells materials for use
20 in home improvement contracts.

1 * * *

2 Section 2. Sections 4(a)(1)(i) and (ix), 5 and 9(10) of the
3 act are amended to read:

4 Section 4. Procedures for registration as a contractor.

5 (a) Application.--

6 (1) A person shall apply to the bureau in writing or
7 electronically via a secure Internet connection, if permitted
8 by the bureau, on a form provided by the bureau. The
9 application shall include the following information:

10 (i) For an individual applicant, all of the
11 following:

12 (A) Name.

13 (B) Date of birth.

14 (C) Home address and home telephone number.

15 (D) Driver's license number [or], a copy of an
16 identification card issued by the state in which the
17 individual resides or other form of identification as
18 permitted by the bureau.

19 (E) Business name, address and telephone number.

20 (F) Federal employer identification number, if
21 applicable.

22 (G) Social Security number.

23 (H) All prior business names and addresses of
24 home improvement businesses operated by the
25 individual.

26 * * *

27 (ix) Proof of liability insurance covering personal
28 injury in an amount not less than \$50,000 and insurance
29 covering property damage caused by the work of a home
30 improvement contractor in an amount not less than

1 \$50,000. For the purpose of this subparagraph, proof of
2 insurance may include information indicating that the
3 applicant is self-insured and the bureau may determine
4 the sufficiency of the self-insurance and the manner in
5 which it is maintained in compliance with this act.

6 * * *

7 Section 5. Application fees.

8 (a) Amount.--Each application for a certificate for a home
9 improvement contractor or renewal of that certificate shall be
10 accompanied by a fee of \$50. After completion of the application
11 and payment of the fee, the bureau shall issue the home
12 improvement contractor a registration certificate identifying
13 the name of the individual contractor, name and address of the
14 business and a registration number. Renewals shall be on a
15 biennial basis.

16 (b) Home Improvement Account.--A restricted revenue account
17 known as the Home Improvement Account is established in the
18 State Treasury. All fees and penalties collected under this act
19 prior to the effective date of this subsection shall be
20 transferred into the Home Improvement Account. All fees and
21 penalties collected under this act after the effective date of
22 this subsection shall be deposited into the Home Improvement
23 Account. The funds in the Home Improvement Account and any
24 interest earned shall be dedicated to the Attorney General for
25 administering and enforcing the provisions of this act and to
26 protect consumers with respect to home improvements through
27 consumer education and other means.

28 Section 9. Prohibited acts.

29 No person shall:

30 * * *

1 (10) [For] (i) Except as provided under subparagraph
2 (ii), for a home improvement contract in which the total
3 price is more than [\$1,000] \$5,000, receive a deposit in
4 excess of:

5 [(i)] (A) one-third of the home improvement
6 contract price; or

7 [(ii)] (B) one-third of the home improvement
8 contract price plus the cost of special order
9 materials that [have been ordered] will be ordered,
10 as designated in the written contract.

11 (ii) The provisions of subparagraph (i) shall not
12 apply to a home improvement retailer, regardless of net
13 worth, who does all of the following:

14 (A) Posts an irrevocable letter of credit,
15 payable to the bureau for the use and benefit of
16 every person protected by the provisions of this
17 subparagraph in a form approved by the bureau, in the
18 amount of \$100,000 per store location but not to
19 exceed ~~\$1,000,000~~ \$2,000,000 for a home improvement ←
20 retailer that has multiple stores.

21 (B) Ensures that its contractors are registered
22 under this act and have proof of liability insurance
23 as defined in Section 4(a)(1)(ix).

24 (iii) In the event of a dispute with a home
25 improvement retailer or a contractor authorized to do
26 work on behalf of the home improvement retailer, an owner
27 may file with the bureau a complaint against the home
28 improvement retailer and request a draw upon the home
29 improvement retailer's letter of credit. The following
30 shall apply:

1 (A) Upon receipt of a complaint, the bureau
2 shall notify the home improvement retailer and
3 investigate the complaint.

4 (B) Upon a determination by the bureau that the
5 home improvement retailer is in default of the
6 contract, the bureau may, after providing notice to
7 the home improvement retailer, draw upon the
8 irrevocable letter of credit TO SATISFY A CONSUMER'S ←
9 COMPLAINT AS PART OF ITS MEDIATION PROCESS OR A CIVIL
10 ACTION BROUGHT UNDER THE ACT OF DECEMBER 17, 1968
11 (P.L.1224, NO.387), KNOWN AS THE UNFAIR TRADE
12 PRACTICES AND CONSUMER PROTECTION LAW.

13 (C) A home improvement retailer with two draws
14 on an irrevocable letter of credit WITHIN A TWO-YEAR ←
15 PERIOD issued for the purposes of this subparagraph
16 shall be prohibited from posting an irrevocable
17 letter of credit for purposes of this subparagraph
18 for a period of five years beginning from the date of
19 the second draw and shall be required to comply with
20 subparagraph (i).

21 * * *

22 Section 3. This act shall take effect immediately.