

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 973 Session of 2009

INTRODUCED BY TOMLINSON AND BOSCOLA, JUNE 18, 2009

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 30, 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~~ ATTESTED TO ←  
3           BY AN APPLICANT that the applicant is self-insured and  
4           the bureau SHALL DEVELOP FORMS FOR THIS PURPOSE AND MAKE ←  
5           THEM AVAILABLE TO APPLICANTS. THE BUREAU may determine  
6           the sufficiency of the self-insurance and the manner in  
7           which it is maintained in compliance with this act.

8           \* \* \*

9           Section 5. Application fees.

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

18          (b) Home Improvement Account.--A restricted revenue account  
19          known as the Home Improvement Account is established in the  
20          General Fund. All fees and penalties collected under this act  
21          after the effective date of this subsection shall be deposited  
22          into the Home Improvement Account. The funds in the Home  
23          Improvement Account and any interest earned shall be  
24          appropriated to the Attorney General for administering and  
25          enforcing the provisions of this act and to protect consumers  
26          with respect to home improvements through consumer education and  
27          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 \$2,000,000 for a home improvement retailer  
20 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.