
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1336 Session of
2011

INTRODUCED BY GODSHALL, PRESTON, AUMENT, BAKER, BURNS, BUXTON,
CHRISTIANA, P. COSTA, DELOZIER, ELLIS, FABRIZIO, FARRY,
GABLER, GIBBONS, GRELL, KAUFFMAN, M. K. KELLER, MARSICO,
METZGAR, MURT, MUSTIO, OBERLANDER, PAYTON, PICKETT, PYLE,
QUIGLEY, QUINN, REED, SAINATO, SANTONI, SCHRODER, SONNEY,
STEPHENS, SWANGER, TOOHIL AND VEREB, APRIL 12, 2011

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 12, 2011

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

1 person is registered under this act, who sells materials for use
2 in home improvement contracts.

3 * * *

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

6 Section 4. Procedures for registration as a contractor.

7 (a) Application.--

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

12 (i) For an individual applicant, all of the
13 following:

14 (A) Name.

15 (B) Date of birth.

16 (C) Home address and home telephone number.

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

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

22 (F) Federal employer identification number, if
23 applicable.

24 (G) Social Security number.

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

28 * * *

29 (ix) Proof of liability insurance covering personal
30 injury in an amount not less than \$50,000 and insurance

1 covering property damage caused by the work of a home
2 improvement contractor in an amount not less than
3 \$50,000. For the purpose of this subparagraph, proof of
4 insurance may include information attested to by an
5 applicant that the applicant is self-insured and the
6 bureau shall develop forms for this purpose and make them
7 available to applicants. The bureau may determine the
8 sufficiency of the self-insurance and the manner in which
9 it is maintained in compliance with this act.

10 * * *

11 Section 5. Application fees.

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

20 (b) Home Improvement Account.--

21 (1) A restricted revenue account known as the Home
22 Improvement Account is established in the General Fund. All
23 fees and penalties collected under this act after the
24 effective date of this subsection shall be deposited into the
25 Home Improvement Account, which account shall be interest-
26 bearing.

27 (2) The funds in the Home Improvement Account and any
28 interest earned on the funds shall be appropriated to the
29 Attorney General for administering and enforcing the
30 provisions of this act and to protect consumers with respect

1 to home improvements through consumer education and other
2 means.

3 Section 9. Prohibited acts.

4 No person shall:

5 * * *

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

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

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

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

19 (A) Posts an irrevocable letter of credit,
20 payable to the bureau for the use and benefit of
21 every person protected by the provisions of this
22 subparagraph in a form approved by the bureau, in the
23 amount of \$100,000 per store location but not to
24 exceed \$2,000,000 for a home improvement retailer
25 that has multiple stores.

26 (B) Ensures that its contractors are registered
27 under this act and have proof of liability insurance
28 as defined in section 4(a)(1)(ix).

29 (iii) In the event of a dispute with a home
30 improvement retailer or a contractor authorized to do

1 work on behalf of the home improvement retailer, an owner
2 may file with the bureau a complaint against the home
3 improvement retailer and request a draw upon the home
4 improvement retailer's letter of credit. The following
5 shall apply:

6 (A) Upon receipt of a complaint, the bureau
7 shall notify the home improvement retailer and
8 investigate the complaint.

9 (B) Upon a determination by the bureau that the
10 home improvement retailer is in default of the
11 contract, the bureau may, after providing notice to
12 the home improvement retailer, draw upon the
13 irrevocable letter of credit to satisfy a consumer's
14 complaint as part of its mediation process or a civil
15 action brought under the act of December 17, 1968
16 (P.L.1224, No.387), known as the Unfair Trade
17 Practices and Consumer Protection Law.

18 (C) A home improvement retailer with two draws
19 on an irrevocable letter of credit within a two-year
20 period issued for the purposes of this subparagraph
21 shall be prohibited from posting an irrevocable
22 letter of credit for purposes of this subparagraph
23 for a period of five years beginning from the date of
24 the second draw and shall be required to comply with
25 subparagraph (i).

26 * * *

27 Section 3. This act shall take effect immediately.