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**THE GENERAL ASSEMBLY OF PENNSYLVANIA**

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**HOUSE BILL****No. 1336** Session of  
2011

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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, REED, SAINATO, SANTONI, SCHRODER, SONNEY, STEPHENS,  
SWANGER, TOOHIL AND VEREB, APRIL 12, 2011

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SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL  
LICENSURE, IN SENATE, AS AMENDED, JUNE 14, 2011

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## 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 \* \* \*

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

4 \* \* \*

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

7 Section 4. Procedures for registration as a contractor.

8 (a) Application.--

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

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

15 (A) Name.

16 (B) Date of birth.

17 (C) Home address and home telephone number.

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

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

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

25 (G) Social Security number.

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

29 \* \* \*

30 (ix) Proof of liability insurance covering personal

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

11 \* \* \*

12 Section 5. Application fees.

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

21 (b) Home Improvement Account.--

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

28 (2) The funds in the Home Improvement Account and any  
29 interest earned on the funds shall MAY be appropriated to the ←  
30 Attorney General for administering and enforcing the

1 provisions of this act and to protect consumers with respect  
2 to home improvements through consumer education and other  
3 means.

4 Section 9. Prohibited acts.

5 No person shall:

6 \* \* \*

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

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

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

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

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

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

30 (iii) In the event of a dispute with a home

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

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

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

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

27 \* \* \*

28 Section 3. This act shall take effect immediately.