



January 7, 2015

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## SENATE BILL No. 108

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DIGEST OF SB 108 (Updated January 5, 2015 1:52 pm - DI ck)

**Citations Affected:** IC 24-5.

**Synopsis:** Home improvement supplier registry. Requires the consumer protection division of the office of the attorney general (division) to establish and administer a voluntary home improvement supplier registry to allow persons that: (1) execute at least five home improvement contracts in Indiana in a calendar year; and (2) meet the specified requirements for registration; to register with the division and appear on a listing maintained by the division. Sets forth the requirements for registration. Requires the division to make the listing of registered home improvement suppliers available to the public on the attorney general's Internet web site. Allows the division to adopt rules, including emergency rules, to implement the establishment and administration of the registry.

**Effective:** Upon passage.

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January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure; amended, reported favorably — Do Pass; reassigned to Committee on Commerce & Technology.

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SB 108—LS 6024/DI 13



January 7, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 108

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A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-5-11-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this  
3 chapter, "consumer" means an individual who owns, leases, or rents ~~the~~  
4 residential property that is:

5 **(1) located in Indiana; and**

6 **(2) the subject of a home improvement contract.**

7 SECTION 2. IC 24-5-11-2.3 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: **Sec. 2.3. As used in this chapter, "division"**  
10 **refers to the consumer protection division of the office of the**  
11 **attorney general.**

12 SECTION 3. IC 24-5-11-6 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this  
14 chapter, "home improvement supplier" means a person who engages in  
15 or solicits home improvement contracts **in Indiana** whether or not the  
16 person deals directly with the consumer.

SB 108—LS 6024/DI 13



1 SECTION 4. IC 24-5-11-7.3 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: **Sec. 7.3. As used in this chapter, "registry"**  
 4 **refers to the voluntary home improvement supplier registry**  
 5 **established and administered by the division under section 8.5 of**  
 6 **this chapter.**

7 SECTION 5. IC 24-5-11-8.5 IS ADDED TO THE INDIANA CODE  
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 9 UPON PASSAGE]: **Sec. 8.5. (a) This section applies to a person**  
 10 **that:**

11 (1) **executed in the preceding calendar year at least five (5)**  
 12 **home improvement contracts concerning residential property**  
 13 **located in Indiana; or**

14 (2) **executes, or will execute, in the current calendar year at**  
 15 **least five (5) home improvement contracts concerning**  
 16 **residential property located in Indiana if the person did not in**  
 17 **the preceding calendar year execute at least five (5) home**  
 18 **improvement contracts concerning residential property**  
 19 **located in Indiana.**

20 (b) **The division shall establish and administer a voluntary home**  
 21 **improvement supplier registry to enable persons to whom this**  
 22 **section applies to register with the division. To register with the**  
 23 **division under this section, a person must do the following:**

24 (1) **File an application with the division in the form and**  
 25 **manner prescribed by the division. A registration granted by**  
 26 **the division under this section must be annually renewed with**  
 27 **the division on the dates and in the manner and form**  
 28 **prescribed by the division.**

29 (2) **Obtain any license, certificate, or registration required by**  
 30 **the person's profession as a home improvement supplier.**

31 (3) **Subject to subsection (h)(1), execute a surety bond that:**

32 (A) **is issued by a bonding, surety, or insurance company**  
 33 **authorized to do business in Indiana;**

34 (B) **is a performance bond payable to the state for the use**  
 35 **and benefit of consumers; and**

36 (C) **is in an amount that is at least equal to the amount**  
 37 **prescribed by the division under subsection (c)(1).**

38 (4) **Subject to subsection (h)(2), pay an annual registration fee**  
 39 **in an amount prescribed by the division under subsection**  
 40 **(c)(2).**

41 (c) **In establishing and administering the registry under this**  
 42 **section, the division shall do the following:**



1           **(1) Subject to subsection (h)(1), determine the minimum**  
 2           **amount of the surety bond required under subsection (b)(3).**  
 3           **The minimum amount prescribed by the division under this**  
 4           **subdivision may not exceed twenty-five thousand dollars**  
 5           **(\$25,000). However, a home improvement supplier may elect**  
 6           **to execute a surety bond in an amount that is greater than the**  
 7           **minimum amount prescribed by the division under this**  
 8           **subdivision.**

9           **(2) Subject to subsection (h)(2), determine the amount of the**  
 10           **annual registration fee required under subsection (b)(4). The**  
 11           **division shall use the fees imposed and collected under this**  
 12           **section to administer the registry and to enforce:**

13               **(A) this chapter; and**

14               **(B) IC 24-5-0.5.**

15           **(3) Maintain a listing of all persons that are registered with**  
 16           **the division under this section, including the following**  
 17           **information for each registered person:**

18               **(A) The amount of the bond executed by the person under**  
 19               **subsection (b)(3).**

20               **(B) A description of any licenses, certificates, or**  
 21               **registrations that the person has obtained under subsection**  
 22               **(b)(2).**

23           **The division shall make available to the public on the office of**  
 24           **the attorney general's Internet web site the listing described**  
 25           **in this subdivision.**

26           **(d) The division shall approve an application for an initial or a**  
 27           **renewal registration under this section if the division determines**  
 28           **that the applicant meets the requirements of this section. The**  
 29           **division may deny an application for an initial or a renewal**  
 30           **registration under this section if the division determines that there**  
 31           **has been an administrative or a judicial determination that the**  
 32           **applicant has violated or failed to comply with:**

33               **(1) this chapter;**

34               **(2) IC 24-5-22;**

35               **(3) IC 24-5-0.5; or**

36               **(4) any other applicable law, as determined by the division in**  
 37               **rules adopted under subsection (h);**

38           **during the five (5) years immediately preceding the date of the**  
 39           **application. A grant or denial of an initial or a renewal registration**  
 40           **under this subsection is subject to the procedures set forth in**  
 41           **IC 4-21.5-3-4.**

42           **(e) The division may remove a person from the registry if the**



1 division determines that there has been an administrative or a  
 2 judicial determination that the person has violated or failed to  
 3 comply with:

- 4 (1) this chapter;  
 5 (2) IC 24-5-22;  
 6 (3) IC 24-5-0.5; or  
 7 (4) any other applicable law, as determined by the division in  
 8 rules adopted under subsection (h).

9 A removal of a person from the registry under this subsection is  
 10 subject to the procedures set forth in IC 4-21.5-3-6.

11 (f) A person shall not advertise or represent to a consumer that  
 12 the person is registered with the division under this section if the  
 13 person is not registered with the division under this section at the  
 14 time the advertisement or representation is made.

15 (g) This chapter does not:

- 16 (1) confer upon any person a professional license, certificate,  
 17 or registration to practice as a home improvement supplier;  
 18 (2) limit, terminate, or cancel any professional license,  
 19 certificate, or registration issued to a person to practice as a  
 20 home improvement supplier; or  
 21 (3) require a person to obtain a professional license,  
 22 certificate, or registration not otherwise required by law for  
 23 the person's profession as a home improvement supplier.

24 (h) The division may adopt rules under IC 4-22-2, including  
 25 emergency rules adopted in the manner provided by  
 26 IC 4-22-2-37.1, to implement this section. Rules or emergency rules  
 27 adopted by the division under this subsection must take effect by  
 28 a date that will enable a person to apply to the division for  
 29 registration under this section not later than July 1, 2016. In rules  
 30 or emergency rules adopted under this subsection, the division may  
 31 include provisions to do the following:

32 (1) Permit the division to:

- 33 (A) waive the requirement for the execution of a surety  
 34 bond set forth in subsection (b)(3); and  
 35 (B) accept instead of a bond an irrevocable letter of credit  
 36 that is:  
 37 (i) in an amount equivalent to the minimum amount  
 38 prescribed by the division under subsection (c)(1); and  
 39 (ii) issued in favor of the state for the use and benefit of  
 40 consumers;

41 under circumstances the division determines appropriate.

42 (2) Permit the division to waive the requirement for the



1            **payment of an annual fee under subsection (b)(4), under**  
2            **circumstances the division determines appropriate.**  
3            **Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by**  
4            **the division in the manner provided by IC 4-22-2-37.1 to**  
5            **implement this section expires on the date a rule that supersedes**  
6            **the emergency rule is adopted by the division under IC 4-22-2-24**  
7            **through IC 4-22-2-36.**  
8            **SECTION 6. An emergency is declared for this act.**

