
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1266 Session of
2015

INTRODUCED BY TOMLINSON, BROWNE, RAFFERTY, GREENLEAF, HUGHES,
TARTAGLIONE, YUDICHAK, VULAKOVICH, BAKER, MENSCH AND HAYWOOD,
MAY 18, 2016

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
MAY 18, 2016

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," further providing for registration of
6 contractors, for home improvement fraud and for prohibited
7 acts.

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

10 Section 1. Section 3 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 subsections to read:

13 Section 3. Registration of contractors.

14 * * *

15 (e) Nonissuance, suspension or revocation.--The bureau may
16 refuse to register a person or suspend or revoke a registration
17 issued to a person upon proof that a person has:

18 (1) obtained a registration through fraud, deception or
19 misrepresentation;

1 (2) engaged in the use or employment of dishonesty,
2 fraud, deception, misrepresentation, false promise or false
3 pretense;

4 (3) engaged in gross negligence, gross malpractice or
5 gross incompetence;

6 (4) engaged in repeated acts of negligence, malpractice
7 or incompetence;

8 (5) been convicted of a crime involving theft,
9 deception, fraud, misrepresentation or moral turpitude or a
10 crime adverse to the provisions of this act. As used in this
11 paragraph, the term "convicted" shall include a judgment, an
12 admission of guilt or a plea of nolo contendere;

13 (6) had a suspended or revoked registration as a
14 contractor imposed by any other state agency outside of this
15 Commonwealth for reasons similar to those listed under this
16 subsection; or

17 (7) violated or failed to comply with the provisions of
18 this act.

19 (f) Administrative procedure.--Actions of the bureau under
20 this act shall be subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
21 to practice and procedure of Commonwealth agencies) and 7 Subch.
22 A (relating to judicial review of Commonwealth agency action).

23 Section 2. Section 8(a) and (c)(1) of the act are amended to
24 read:

25 Section 8. Home improvement fraud.

26 (a) Offense defined.--A person commits the offense of home
27 improvement fraud if, with intent to defraud or injure anyone or
28 with knowledge that he is facilitating a fraud or injury to be
29 perpetrated by anyone, the actor:

30 (1) makes a false or misleading statement to induce,

1 encourage or solicit a person to enter into any written or
2 oral agreement for home improvement services or provision of
3 home improvement materials or to justify an increase in the
4 previously agreed upon price;

5 (2) receives any advance payment for performing home
6 improvement services or providing home improvement materials
7 and fails to perform or provide such services or materials
8 when specified in the contract taking into account any force
9 majeure or unforeseen labor strike that would extend the time
10 frame or unless extended by agreement with the owner and
11 fails to return the payment received for such services or
12 materials which were not provided by that date;

13 (3) while soliciting a person to enter into an agreement
14 for home improvement services or materials, misrepresents or
15 conceals the contractor's or salesperson's real name, the
16 name of the contractor's business, the contractor's business
17 address or any other identifying information;

18 (4) damages a person's property with the intent to
19 induce, encourage or solicit that person to enter into a
20 written or oral agreement for performing home improvement
21 services or providing home improvement materials;

22 (5) misrepresents himself or another as an employee or
23 agent of the Federal, Commonwealth or municipal government,
24 any other governmental unit or any public utility with the
25 intent to cause a person to enter into any agreement for
26 performing home improvement services or providing home
27 improvement materials;

28 (6) misrepresents an item as a special order material or
29 to misrepresent the cost of the special order material;

30 (7) alters a home improvement agreement, mortgage,

1 promissory note or other document incident to performing or
2 selling a home improvement without the consent of the
3 consumer; [or]

4 (8) directly or indirectly publishes a false or
5 deceptive advertisement in violation of State law governing
6 advertising about home improvement[.]; or

7 (9) enters into a home improvement agreement, whether or
8 not the agreement is written or oral, without first
9 registering with the bureau as provided for under this act.

10 * * *

11 (c) Grading.--

12 (1) A violation of subsection (a) (1), (3), (4), (5),
13 (6), (7) [or], (8) or (9) constitutes:

14 (i) a felony of the third degree if the amount
15 involved exceeds \$2,000; or

16 (ii) a misdemeanor of the first degree if the amount
17 involved is \$2,000 or less or if the amount involved
18 cannot be satisfactorily ascertained.

19 * * *

20 Section 3. Section 9 of the act is amended by adding a
21 paragraph to read:

22 Section 9. Prohibited acts.

23 No person shall:

24 * * *

25 (13) Provide false or incomplete information on a
26 registration application to the bureau.

27 Section 4. This act shall take effect in 60 days.