

CHAPTER 25**REGULATIONS GOVERNING NEW HOME WARRANTIES AND BUILDERS' REGISTRATION****Authority**

N.J.S.A. 46:3B-10.

Source and Effective Date

R.2006 d.269, effective June 22, 2006.
See: 37 N.J.R. 2754(a), 38 N.J.R. 3019(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, expires on December 19, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was adopted as new rules by R.1979 d.147, effective April 19, 1979. See: 10 N.J.R. 377(b), 11 N.J.R. 223(c).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was readopted as R.1980 d.522, effective January 1, 1980. See: 12 N.J.R. 631(a), 13 N.J.R. 7(e).

The Executive Order No. 66(1978) expiration date for Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was extended by gubernatorial directive from January 1, 1986 to February 3, 1986. See: 18 N.J.R. 218(a).

The Executive Order No. 66(1978) expiration date for Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was extended by gubernatorial directive from February 3, 1986 to March 31, 1986. See: 18 N.J.R. 490(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was readopted as R.1986 d.141, effective March 31, 1986. See: 17 N.J.R. 2816(a), 18 N.J.R. 959(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was readopted as R.1991 d.140, effective February 19, 1991. See: 22 N.J.R. 1701(a), 23 N.J.R. 847(c).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was readopted as R.1996 d.93, effective January 24, 1996. See: 27 N.J.R. 4058(a), 28 N.J.R. 1225(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was readopted as R.2001 d.56, effective January 18, 2001. See: 32 N.J.R. 1271(a), 33 N.J.R. 692(a).

Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was readopted as R.2006 d.269, effective June 22, 2006. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was scheduled to expire on December 19, 2011. See: 42 N.J.R. 3015(b).

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SUBCHAPTER 1. GENERAL PROVISIONS**5:25-1.1 Title**

This chapter shall be known as and may be cited as "Regulations Governing New Home Warranties and Builders' Registration".

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 564) adopted, which concluded that it was reasonable for the homeowner to be present for a repair made pursuant to the New Home Warranty Act, whether the repair was to the inside or outside of the house, and that the owner did not deny access to the home to make repairs. *Koutouzakis v. Orenson Constr.*, OAL Dkt. No. CAF 05885-07, 2007 N.J. AGEN LEXIS 497, Final Decision (August 17, 2007).

5:25-1.2 Scope

This chapter shall: prescribe the form and coverage of the minimum warranty established by the Act; govern procedures for the implementation and processing of claims pursuant to the warranty; establish requirements for registration as a builder, and procedures governing the denial, revocation and suspension of builders registration; and, establish the requirements of private alternate New Home Warranty Security Plans and of the State New Home Warranty Security Plan.

5:25-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the New Home Warranty and Builders’ Registration Act (P.L. 1977, c.467), and regulations promulgated hereunder.

“Appliances, fixtures, and equipment” shall mean and include, but not be limited to: furnaces, boilers, heat pumps, humidifiers, air purifiers, air handling equipment, ventilating fans, air conditioning equipment, water heater, pumps, stoves, ranges, ovens, refrigerators, garbage disposals, food waste disposers, compactors, dishwashers, automatic garage door openers, washers, and dryers, plumbing fixtures and trim, faucets, fittings, motors, water treating equipment, ejectors, thermostats and controls, including any fitting attachments; electric receptacles, switches, lighting fixtures, and circuit breakers;

“Builder designee” means the partner, officer, or director designated as such in the builder’s application for registration and is the individual responsible for on-site building activity.

“Certificate of occupancy” means the certificate required to be issued pursuant to the State Uniform Construction Code Act, (N.J.S.A. 52:27D-119. et seq.).

“Certificate of Participation” means that certificate which is issued by the Commissioner to the owner of each new home constructed by a builder who participates in the State Plan and which signifies that the home was constructed by a participating builder, and that premiums due have been paid.

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Common elements” shall mean those elements listed in the master deed on file for each such development or unit as required under law for common ownership.

“Consequential damages” means damage to the home itself resulting directly or proximately from a defect covered by the warranty.

“Construction permit” means that permit required pursuant to the State Uniform Construction Code Act (N.J.S.A.

52:27D-119 et seq.) before the construction of any new home is permitted to begin.

“Department” means the Department of Community Affairs.

“Director” means the Director of the Division of Codes and Standards.

“Division” means the Division of Codes and Standards in the Department of Community Affairs.

“General contractor” means a builder who is responsible for general construction, plumbing, heating, and air-conditioning, and electrical work for a single new home constructed for an owner on the owner’s land.

“Major structural defect” means any actual damage to the load-bearing portion of the home, including consequential damages, damage due to subsidence, expansion or lateral movement of the soil (excluding movement caused by flood or earthquake) that affects its load-bearing function and that vitally affects or is imminently likely to vitally affect use of the home for residential purposes. “Major structural defect” shall have the same meaning as “major construction defect,” as used in the Act.

“Mechanical and electrical systems” shall mean and include the following:

1. Plumbing system: Gas supply lines and fittings, and water supply, waste and vent pipes and their fittings; septic tanks and their drains; water, gas, and sewer service piping, and their extensions to the property line which tie-in to a public utility connection or on-site well and/or sewage disposal system.
2. Electrical system: All wiring, electrical boxes, and connections up to the public utility meter connection, excluding appliances, fixtures and equipment.
3. Heating, Ventilating, Cooling and Mechanical systems: All ductwork, steam, water and refrigerant lines, registers, convectors, radiation elements and dampers.

“New home” means any dwelling unit not previously occupied, excluding dwelling units constructed solely for lease, and units governed by the Federal Mobile Home Construction and Safety Standards Act, 42 USC 5401 et seq.

“New home builder” means any individual, corporation, partnership or other business organization engaged in the construction of new homes. Whenever used herein the term “builder” shall mean “new home builder.”

“Owner” means any person for whom the new home is built, or to whom the new home is sold, for occupation by that person or the family of that person as a home, and also means and includes his or her successors in title to the home, or mortgagee in possession. “Owner” does not mean or include any development company, association or subsidiary