

CHAPTER 19

HOME REPAIR FINANCING ACT REGULATIONS

Authority

N.J.S.A. 17:1-8, 17:1-15(e), and 17:16C-62 et seq.

Source and Effective Date

R.2006 d.409, effective October 26, 2006.
See: 38 N.J.R. 2246(a), 38 N.J.R. 5010(a).

Chapter Expiration Date

Chapter 19, Home Repair Financing Act Regulations, expires on October 26, 2011.

Chapter Historical Note

Chapter 19, Home Repair Financing Act Regulations, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Credit Service Charge Rate Regulation Number One, was adopted as R.1981 d.29, effective January 27, 1981. See: 13 N.J.R. 116(a).

Subchapter 2, Credit Service Charge Rate Regulation Number One, was repealed by R.1984 d.334, effective August 6, 1984. See: 15 N.J.R. 1788(a), 16 N.J.R. 2084(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, General, expired on December 17, 1985.

Subchapter 1, General, was adopted as new rules by R.1986 d.72, effective March 17, 1986. See: 18 N.J.R. 15(a), 18 N.J.R. 555(a).

Pursuant to Executive Order No. 66(1978), Chapter 19, Home Repair Financing Act Regulations, was readopted as R.1991 d.194, effective March 15, 1991. See: 23 N.J.R. 256(a), 23 N.J.R. 1127(a). Pursuant to Executive Order No. 66(1978), Chapter 19 expired on March 15, 1996.

Chapter 19, Home Repair Financing Act Regulations, was adopted as new rules by R.1996 d.215, effective May 6, 1996. See: 28 N.J.R. 1333(a), 28 N.J.R. 2373(b).

Pursuant to Executive Order No. 66(1978), Chapter 19, Home Repair Financing Act Regulations, was readopted as R.2001 d.179, effective May 6, 2001. See: 33 N.J.R. 931(a), 33 N.J.R. 1911(a).

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SUBCHAPTER 1. GENERAL

3:19-1.1 Jurisdictional provision

Notwithstanding the place of execution, nominal or real, of a home repair contract, if it includes as a party thereto a New Jersey owner and is to be performed in New Jersey, it will be deemed to be subject to the Home Repair Financing Act.

Statutory References

N.J.S.A. 17:16C-1 et seq.

3:19-1.2 Licensing requirement

(a) In the administration of the Home Repair Financing Act, N.J.S.A. 17:16C-62(d) and 77(a), the following will be deemed to require licensing as a "home repair contractor":

1. A person who, for his or her own account, solicits and procures the execution of a home repair contract by an owner, and who signs said home repair contract as a contractor, or who has such a home repair contract solicited and executed on his or her behalf by his or her salesperson, whether or not such contract is subsequently assigned to, or performed by, another; and

2. A person who assumes, by assignment, performance or otherwise, the contractual responsibility to perform a home repair contract, and benefits thereunder.

(b) In the administration of the Home Repair Financing Act, N.J.S.A. 17:16C-62(n) and 77(a), the following will be deemed to require licensing as a "home repair salesperson":

1. A person who contracts or who solicits, arranges, discusses or otherwise negotiates with an owner, directly or indirectly, and in so doing procures any written memorandum, agreement, estimate, contract or any other writing which subsequently results in the execution of a home repair contract between an owner and a home repair contractor.

(c) The application fee for a home repair contractor shall be \$300.00 and \$60.00 for a home repair salesperson.

(d) Application fees are not refundable.

As amended, R.1977 d.174, eff. June 1, 1977.

See: 9 N.J.R. 111(a), 9 N.J.R. 253(a).

Amended by R.1991 d.194, effective April 15, 1991.

See: 23 N.J.R. 256(a), 23 N.J.R. 1127(a).

Expanded coverage to require that those who have home repair contracts solicited on their behalf and who assign them to others for performance are subject to licensure.

Amended by R.2001 d.179, effective June 4, 2001.

See: 33 N.J.R. 931(a), 33 N.J.R. 1911(a).

Rewrote (a) and (b) and added (c).

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Substituted "application" for "annual license" in (c); and added (d).

Statutory References

N.J.S.A. 17:16C-62(d) and 77(a).

3:19-1.3 Self-installation exemption

A contract for goods or services, whether contained in one or more documents, executed between an owner and the seller or supplier of goods or services to such owner will be deemed a home repair contract if it provides that the time sales price of said goods or services is to be paid in installments over a period of time greater than 90 days; provided, however, that where such an installment contract for goods is made with the express understanding and representation that such goods will be utilized, installed or applied by the owner independently, and not directly or indirectly in connection with any written, oral or implied installment contract for services, such contract for goods will not be deemed to be a home repair contract.

Amended by R.1991 d.194, effective April 15, 1991.
See: 23 N.J.R. 256(a), 23 N.J.R. 1127(a).
Reference to "three months" changed to "90 days".

Statutory References

N.J.S.A. 17:16C-62(c).

3:19-1.4 Two or more transactions

A person who participates in two or more home repair contracts in any calendar year will be deemed to be "in the business" for the purpose of qualifying as a home repair contractor.

Statutory References

N.J.S.A. 17:16C-77(a).

3:19-1.5 Sales and use tax disclosure

For the purpose of implementing N.J.S.A. 17:16C-67, as these sections relate to N.J.S.A. 54:32B-2(d) and 54:32B-12(a), of the Sales and Use Tax Act, the sales tax, if applicable, shall be shown as a separate item in the manner prescribed below, if the down payment or any part of the down payment represents a credit given by the home repair contractor as authorized by N.J.S.A. 54:32B-2(d).

Sale without Trade-in	
Cash price (sales tax \$60.00)	\$1,060.00
or	
Cash price	\$1,000.00
Sales Tax	\$ 60.00
Total cash price	\$1,060.00
Sale with Trade-in	
Cash price	\$1,000.00
Allowance on trade-in	\$ 500.00
Adjusted cash price (sales tax \$30.00)	\$ 530.00
or	

Cash price	\$1,000.00
Allowance on trade-in	\$ 500.00
Adjusted cash price	\$ 500.00
Sales tax	\$ 30.00
Total cash price	\$ 530.00

Amended by R.1996 d.215, effective May 6, 1996.
See: 28 N.J.R. 1333(a), 28 N.J.R. 2373(b).

Statutory References

N.J.S.A. 17:16C-67(a)-(c).

3:19-1.6 License, reference or certificate number

(a) A home repair contractor shall indicate the current license, reference or certificate number on all contracts, subcontracts, bids and all forms of advertising.

(b) Home repair contractors having multiple offices may utilize their main office license or certificate number for the purpose of compliance with this section and N.J.S.A. 45:1-9.

R.1975 d.148, eff. May 30, 1975.
See: 7 N.J.R. 191(b), 7 N.J.R. 291(d).
As amended, R.1977 d.175, eff. June 1, 1977.
See: 9 N.J.R. 111(c), 9 N.J.R. 253(b).
As amended, R.1980 d.556, eff. December 29, 1980.
See: 12 N.J.R. 566(a), 13 N.J.R. 62(b).

Reference to "or certificate" number added.
Amended by R.1991 d.194, effective April 15, 1991.
See: 23 N.J.R. 256(a), 23 N.J.R. 1127(a).

Permitted licensees to use their reference number in lieu of their current license number on contracts, subcontracts, bids and advertisements.

Statutory References

N.J.S.A. 17:1-8.1.

3:19-1.7 Home repair salesperson; change of affiliation

A licensed home repair salesperson must be employed by a licensed home repair contractor and may represent only that employer in the transaction of home repair financing business. A licensed home repair salesperson who changes his or her employer shall, within 10 days of this change, submit to the Department a change notification form. When submitting this form, the salesperson shall surrender the license indicating the affiliation with his or her prior employer.

Emergency new rule, R.1989 d.407, effective July 3, 1989 (expires September 1, 1989).
See: 21 N.J.R. 2398(a).
Adopted concurrent proposal, R.1989 d.510, effective August 31, 1989.
See: 21 N.J.R. 2398(a), 21 N.J.R. 3082(a).
Provisions of emergency amendment R.1989 d.407 readopted without change.
Amended by R.1991 d.194, effective April 15, 1991.
See: 23 N.J.R. 256(a), 23 N.J.R. 1127(a).
Removed \$25.00 fee.
Amended by R.2001 d.179, effective June 4, 2001.
See: 33 N.J.R. 931(a), 33 N.J.R. 1911(a).
Substituted "salesperson" for "salesmen" and "salesman" throughout.