

CHAPTER 25
REGULATIONS GOVERNING NEW HOME
WARRANTIES AND BUILDERS'
REGISTRATION

Authority
N.J.S.A. 46:38-10.

Source and Effective Date
R.1996 d.93, effective January 24, 1996.
See: 27 N.J.R. 4058(a), 28 N.J.R. 1225(a).

Executive Order No. 66(1978) Expiration Date
Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, expires on January 24, 2001.

Chapter Historical Note

Chapter 25, Regulations Governing New Home Warranties and Builders' Registration, was adopted as new rules effective April 19, 1979 as R.1979 d.147. See: 10 N.J.R. 377(b), 11 N.J.R. 223(c). Pursuant to Executive Order No. 66(1978), Chapter 25 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 "sunset" provision of Executive Order No. 66(1978) was waived, and the expiration date for Chapter 25 was extended by gubernatorial waiver from January 1, 1986 to February 3, 1986. See: 18 N.J.R. 218(a). The expiration date was further extended by gubernatorial waiver from February 3, 1986 to March 31, 1986. See: 18 N.J.R. 490(a). Pursuant to Executive Order No. 66(1978), Chapter 25 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 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 was readopted as R.1996 d.93, effective January 24, 1996. See: Source and Effective Date. See also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 5:25-1.1 Title
- 5:25-1.2 Scope
- 5:25-1.3 Definitions
- 5:25-1.4 Administration and enforcement
- 5:25-1.5 Effective date
- 5:25-1.6 Validity

SUBCHAPTER 2. BUILDER REGISTRATION

- 5:25-2.1 Registration required
- 5:25-2.2 Registration; new home builder
- 5:25-2.3 Certificate of registration
- 5:25-2.4 Registration renewal
- 5:25-2.5 Denial, suspension or revocation of registration
- 5:25-2.6 Failure to register; penalty
- 5:25-2.7 Enrollment in a warranty plan
- 5:25-2.8 Restoration of registration

SUBCHAPTER 3. WARRANTY COVERAGE AND STANDARDS

- 5:25-3.1 Warranty applicability
- 5:25-3.2 Warranty coverage
- 5:25-3.3 Builder responsibilities
- 5:25-3.4 Warranty exclusions

- 5:25-3.5 Performance standards
- 5:25-3.6 Structural and mechanical system standards
- 5:25-3.7 Major structural defects
- 5:25-3.8 Limit on liability
- 5:25-3.9 Warranty minimum
- 5:25-3.10 Remedy exclusive

SUBCHAPTER 4. PRIVATE ALTERNATE NEW HOME WARRANTY SECURITY PLANS

- 5:25-4.1 Private plans permitted
- 5:25-4.2 Requirements
- 5:25-4.3 Application approval
- 5:25-4.4 Revocation or suspension of approval
- 5:25-4.5 Denial, suspension or revocation hearing
- 5:25-4.6 Responsibilities; prohibitions

SUBCHAPTER 5. THE STATE NEW HOME WARRANTY SECURITY PLAN

- 5:25-5.1 Fund administrator
- 5:25-5.2 Claim eligibility
- 5:25-5.3 Builder participation; new home warranty and security fund
- 5:25-5.4 Warranty contributions, amount, date due
- 5:25-5.5 Claims procedure

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".

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 dispos-

als, 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.”

“Person” means any individual, corporation, association, or other entity, as defined in N.J.S.A. 1:1-2.

“Release” means an executed acknowledgement of satisfaction of the claim of defect required to be given to a builder by an owner after a claim of defect is satisfied. A release shall not prejudice the right of the owner to further relief from the builder pursuant to N.J.A.C. 5:25-5.5, Claims procedure.

“State New Home Warranty Security Plan” or “State Plan” means the combination of dispute settlement procedure, New Home Warranty Security Fund, and any other elements of the program operated by the Division of Housing and Development intended to give effect to the Act and these regulations.

“Stockholder” means any person who owns any share or share in a builder except that as used herein the term stockholder shall not include persons holding publicly-traded shares on any national or regional stock exchange.

“Subsidiary” means any corporation, partnership or other business organization which is controlled in any manner by any other corporation, partnership or business organization. Control is presumed whenever such organizations share any common officers, directors, principals, or stockholders.

“Warrantor” means the builder who constructed or transferred title to the owner.

“Warranty” means the warranty prescribed by the Act and these regulations.