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SUBCHAPTER 17A. HOME ELEVATION
CONTRACTOR REGISTRATION**13:45A-17A.1 Purpose and scope**

(a) The purpose of the rules in this subchapter is to implement the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as amended by P.L. 2004, c. 16, P.L. 2013, c. 144, and P.L. 2014, c. 34 (the "Act") by providing procedures for the regulation of home elevation contractors and establishing standards to facilitate enforcement of the requirements of the Act. The rules establish the Division's registration procedures for home elevation contractors.

(b) These rules shall apply to home elevation contractors in this State.

13:45A-17A.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Advertise" means to communicate to the public by means of any print, electronic, or any other media, including, but not limited to, newspapers, magazines, periodicals, journals, circulars, flyers, business cards, signs, radio, telephone, facsimile machine, television, computer, or the Internet. "Advertise" includes having a person's name in a classified advertisement or directory in this State under any classification of home improvement or home elevation as defined in this section, but does not include simple residential alphabetical listings in standard or Internet telephone directories.

"Director" means the Director of the Division of Consumer Affairs.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Employee" means an employee as defined in N.J.A.C. 18:35-7.1.

"Entity" means the business registered or to be registered as a home elevation contractor.

"Home elevation" means a home improvement consisting of lifting a home off a slab or existing foundation system and setting it back down on a new foundation or piers, posts, columns, or pilings.

"Home elevation contract" means a home improvement contract for a home elevation.

"Home elevation contractor" means a person engaged in the business of making or selling home elevations and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Home improvement" means the remodeling, altering, painting, repairing, renovating, restoring, moving, demolishing, or modernizing of residential or non-commercial property or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, windows, doors, cabinets, kitchens, bathrooms, garages, basements and basement waterproofing, water softeners, heaters, and purifiers, solar heating or water systems, insulation installation, home elevation, siding, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to or forming a part of the residential or non-commercial property, but does not include the construction of a new residence. The term extends to the conversion of existing commercial structures into residential or non-commercial property and includes any of the above activities performed under emergency conditions. The term does not apply to any work required to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner of residential or non-commercial property, or a contractor and a tenant or lessee of residential or non-commercial property, if the tenant or lessee is to be obligated for the payment of home improvements made in, to, or upon such property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Home improvement contractor" means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents, and employees.

"Residential or non-commercial property" means a structure used, in whole or in substantial part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures.

"Sale of home improvements" means any action taken by or on behalf of an entity with the goal of entering into a contract with a consumer for the performance of a home improvement, including a home elevation, which includes, but is not limited to: initial contact with the consumer; taking measurements; presenting estimates for the cost of a home elevation or other home improvement; and entering into the contract with the consumer for the completion of the home improvement or home elevation or both.

“Staff” means an employee or an individual who is engaged pursuant to a written agreement to provide consulting services to the home elevation contractor.

Administrative correction.
See: 47 N.J.R. 1344(b).

13:45A-17A.3 Registration required

(a) On or after October 1, 2014, no person shall engage in the business of making or selling home elevations in this State unless registered with the Division in accordance with this subchapter, except as provided in (a)1 below:

1. If a home improvement contractor has entered into a contract with a consumer to perform home elevation services, prior to October 1, 2014, and the contractor maintains written proof that the consumer has been apprised of the requirements that became effective October 1, 2014, including those required at N.J.A.C. 13:45A-17A.4(b) and 17A.11(b) which will be implemented on June 17, 2015, and has knowingly elected to proceed under the terms of that contract, the contractor will be deemed in compliance with this subchapter.

(b) No person shall advertise indicating that the person is a home elevation contractor in this State unless the person is registered with the Division in accordance with this subchapter.

(c) Any person registered as a home improvement contractor wishing to perform home elevations shall convert his or her home improvement registration into a home elevation registration at no additional fee by completing a home elevation contractor application. The initial term of such home elevation registration shall be the unexpired term of the home improvement registration that was converted.

(d) A person registered as a home elevation contractor shall be exempt from the requirement to register as a home improvement contractor pursuant to N.J.A.C. 13:45A-17.3(a)9; provided that if a person’s home elevation registration is surrendered, suspended, revoked, not renewed, or otherwise is no longer valid, such person shall register as a home improvement contractor under N.J.A.C. 13:45A-17.3 prior to engaging in the business of making or selling home improvements.

(e) Contractors that hire sub-contractors to make home elevations, but do not themselves perform home elevations, shall not be required to register as a home elevation contractor with the Division in accordance with this subchapter.

(f) Officers and employees of a registered home elevation contractor shall not be required to register separately from the registered business entity provided that the officers and

employees sell or make home elevations within their respective scopes of employment for that registered business entity.

Adopted concurrent amendment, R.2015 d.081, with changes effective April 21, 2015.

See: 46 N.J.R. 2188(a), 47 N.J.R. 1014(b).

In (a)1, substituted “on June 17, 2015” for “30 days after adoption of this proposal”.

Administrative correction.

See: 47 N.J.R. 1344(b).

13:45A-17A.4 Initial and renewal applications

(a) Home improvement contractors seeking to become registered under this subchapter shall apply to convert their registration to a home elevation contractor by submitting the following information in addition to that required by (c) and (d) below, on forms provided by the Director:

1. A current and valid registration number;

2. A certification that the applicant contractor currently has, in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, including working directly on home elevation projects and training in the operation of home elevation equipment and describing such experience; and

3. Proof of the home elevation contractor’s insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(a)1.

(b) Home elevation contractors who have converted their HIC registrations under (a) above, and those who have initially registered after October 1, 2014, under (c) below, no later than June 17, 2015, shall submit the following on forms provided by the Director:

1. Proof of the home elevation contractor’s insurance policies in the types and amounts that comply with the requirements of N.J.A.C. 13:45A-17A.11(b);

2. A letter from a surety company authorized to do business in the State, addressed to the Division, to the effect that the applicant has a bonding capacity of at least \$500,000; and

3. A list of three references, complete with contact information, for whom the experienced individual in an ownership or staff position in the home elevation contractor has elevated a residential or non-commercial structure within the past five years.

(c) Applicants seeking to engage in home elevations who do not have a current and valid registration as a home improvement contractor shall apply for initial registration with the Division by submitting the following on forms provided by the Director:

13:45A-17A.6 Duty to update information

(a) Whenever any information required to be included in the application changes, including, but not limited to, a change to the certification required under N.J.A.C. 13:45A-17A.4(c)11, or if additional information should be added after the filing of the application, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition. Whenever any other information filed with the Director pursuant to the Act (N.J.S.A. 56:8-136 et seq.) or this subchapter has changed, the registered home elevation contractor shall provide that information to the Director, in writing, within 20 calendar days of the change or addition.

(b) Whenever any information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant or registered home elevation contractor, as appropriate, shall provide that information to the Director, in writing, within 30 calendar days of the change or addition.

(c) (Reserved)

(d) If, at any time, a home elevation contractor no longer has in an ownership or staff position, at least one named person with a minimum of five years of experience in home elevation, the home elevation contractor shall notify the Division, in writing, within three calendar days.

Administrative correction.
See: 47 N.J.R. 1344(b).

13:45A-17A.7 Requirement to cooperate

Home elevation contractor applicants seeking to register with the Division and registered home elevation contractors shall have the continuing duty to provide any assistance or information; to produce any records requested by the Director; and to cooperate in any inquiry, investigation, or hearing conducted by the Director.

13:45A-17A.8 Refusal to issue, suspension, or revocation of registration; hearing; other sanctions

(a) The Director may refuse to issue or renew, or may suspend or revoke any registration issued by the Division upon proof that an applicant or registrant or any of its officers, directors, principals, or persons with an ownership interest of 10 percent or more in the entity:

1. Has obtained any registration, certification, or license by fraud, deception, or misrepresentation;
2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;
3. Has engaged in gross negligence, gross malpractice, or gross incompetence;

4. Has engaged in repeated acts of negligence, malpractice, or incompetence involving selling or making a home elevation or other home improvement;

5. Has engaged in professional or occupational misconduct;

6. Has been adjudged liable in an administrative or civil action involving any finding or admission which would provide a basis for discipline pursuant to (a)1 through 5 above, regardless of whether that finding was made in the context of an injunction; a proceeding resulting in the denial, suspension, or revocation of a license, certification, or registration; consented to in an assurance of voluntary compliance; or any similar order or legal agreement with any state or Federal agency;

7. Has been convicted of any crime involving moral turpitude or any crime relating adversely to selling or making home elevations or home improvements. For the purpose of this paragraph, a plea of guilty, non vult, nolo contendere, or any other such disposition of alleged criminal activity shall be deemed a conviction;

8. Has had his or her authority to engage in the activity regulated by the Director revoked or suspended by any other state or Federal agency or authority for reasons consistent with this section;

9. (Reserved)

10. Has failed to update information as required by N.J.A.C. 13:45A-17A.6;

11. Has violated or failed to comply with the Act (N.J.S.A. 56:8-136 et seq.) or any provision of this subchapter or the provisions of any act, regulation, or order administered or issued by the Director;

12. No longer has at least one named person with the experience required in N.J.A.C. 13:45A-17A.4(g) in an ownership or staff position; or

13. Is unable to meet the requirements of the Act (N.J.S.A. 56:8-136 et seq.) or any rule in this subchapter for medical or any other good cause to the detriment of the public's health, safety, and welfare.

(b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17A.4 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17A.5 may be used by the Director as grounds for denying, suspending, or revoking a registration. An applicant whose registration is denied or a home elevation contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension, or revocation, which shall

contain the basis for such action. In any matter in which the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that act.

(c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home elevation contractor registration, assessing a penalty, or other sanction, the Director shall notify the applicant or registrant and provide an opportunity to be heard.

(d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.

(e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution, or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

Administrative correction.
See: 47 N.J.R. 1344(b).

13:45A-17A.9 Reinstatement of suspended registration

A registration that is suspended by the Director may be reinstated upon the home elevation contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties, and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17A.13.

Administrative correction.
See: 47 N.J.R. 1344(b).

13:45A-17A.10 Ownership and use of registration number; replacement and duplicate certificates

(a) Each registration number and certificate containing such registration number issued by the Director to a home elevation contractor shall remain the property of the State of New Jersey. If the Director suspends, refuses to renew, or revokes a registration, the home elevation contractor shall immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising, and anything else on which the registration number is displayed or otherwise communicated.

(b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in

N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated, or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.

(c) The Director shall issue a duplicate certificate to a registered home elevation contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17A.13 and receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the home elevation contractor must display a certificate. A registered home elevation contractor may not possess more registration certificates than the number of places of business utilized by the home elevation contractor.

(d) A registered home elevation contractor shall prominently display:

1. The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and

2. The home elevation contractor's registration number on all advertisements distributed within this State, on business documents and contracts, and on correspondence with consumers of home elevation services in this State.

(e) All commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home elevations, except for vehicles leased or rented by a registrant to a customer of that registrant, shall be marked on both sides with the following information:

1. The name of the registered home elevation contractor in lettering at least one inch in height; and

2. The home elevation contractor registration number of the registrant in lettering at least one inch in height.

(f) Any invoice, contract, or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to N.J.S.A. 56:8-149.b, which shall be displayed in all caps in at least 10-point boldface type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

13:45A-17A.11 Mandatory insurance and bonding

(a) As of October 1, 2014, every registered home improvement contractor seeking to become registered as a home elevation contractor shall secure and maintain in full force and effect during the entire term of registration insurance in the amount of \$1 million per occurrence, over and above the \$500,000 required for registration as a home improvement contractor, of a type covering home elevation activities to cover damages or other losses to the homeowner, lessee, tenant, or other party resulting from the home elevation.

(b) No later than June 17, 2015, every registered home elevation contractor or applicant seeking to become registered as a home elevation contractor shall secure and maintain in full force and effect during the entire term of registration:

1. Cargo, structural movers cargo, builders risk, riggers liability, care custody and control, or any other insurance policies that together are broad enough to cover the following risk of loss to the homeowner's dwelling, other structures, and personal property during the contracted elevation operations: perils typically insured under a "special form" homeowners policy, including damage caused by the negligence of the contractor and its subcontractors. Certificates of insurance for these policies shall be provided to the homeowner. Policies covering the risks identified below shall be maintained in the stated amounts per occurrence with the minimum aggregate amounts:

i. Cargo insurance, or other policy insuring the homeowner's, lessor's, or tenant's personal property located in the dwelling and other structures being lifted, shall provide minimum coverage in the amount of \$50,000 per occurrence, with a minimum aggregate amount of \$200,000;

ii. Riggers or care custody or control insurance, or other policy insuring the dwelling and other structures being lifted, shall provide minimum coverage in the amount of \$500,000 per occurrence, with a minimum aggregate amount of \$2,000,000;

iii. Policies insuring the dwelling and other structures being lifted, and the homeowner's, lessor's, or tenant's personal property located in them, for damage unrelated to the legal liability of the contractor shall provide minimum coverage in the amount of \$500,000 per occurrence, with a minimum aggregate in the amount of \$2,000,000;

iv. Commercial general liability insurance, having a minimum coverage amount of \$1,000,000 per occurrence (including the \$500,000 of coverage required for all home improvement contractors), with an aggregate limit of \$2,000,000; and

v. Commercial auto liability insurance having a minimum coverage amount of \$1,000,000 per occurrence;

2. Bonding capacity of at least \$500,000 and outstanding payment and performance bonds in an amount at least equal to the value of all active home elevation contracts. A performance and payment surety bond or bonds in favor of the homeowner in the minimum amount of the value of each home elevation contract for the duration of the project, the signed original of the bond or bonds shall be provided to the homeowner; and

3. Any other insurance required by law or regulations, including, but not limited to, workers compensation insurance.

(c) Insurance and surety bonds shall be obtained from insurers and surety companies licensed to do business in the State of New Jersey with an A.M. Best's rating of not less than A-.

(d) The Division shall be a certificate holder on all insurance policies, and as such, shall be issued a certificate(s) of insurance which shall contain the insured's name, business street address, policy number, term of the insurance, and coverage information. The certificate must state affirmatively the following: "This policy is applicable to the home elevation operations of the insured." A copy of the insurance policy or policies together with the declaration page indicating the limits of liability shall be attached to the certificate. The issuer shall provide the Division with written notice of cancellation or non-renewal within 10 days of the cancellation or non-renewal of any such insurance policies.

(e) Every registered contractor engaged in home elevation whose insurance policies are canceled, not renewed, or changed shall submit to the Director copies of the certificates of insurance for new or replacement policies which meet the requirements of (b)1 and 2 above, before the former policies are no longer effective.

Adopted concurrent amendment, R.2015 d.081, with changes effective April 21, 2015.

See: 46 N.J.R. 2188(a), 47 N.J.R. 1014(b).

In the introductory paragraph of (b), substituted "No later than June 17, 2015" for "Within 30 days of the adoption of this concurrent proposal".

13:45A-17A.12 Requirements of certain home elevation contracts

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home elevation contract in which a person required to be registered as a home elevation contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

13:45A-17A.13 Fees

(a) The Division shall charge the following non-refundable home elevation contractor registration fees:

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|---|-----------|
| 1. Initial registration fee | \$110.00; |
| 2. Renewal registration fee | \$90.00; |
| 3. Late fee | \$25.00; |
| 4. Reinstatement fee | \$50.00; |
| 5. Replacement or duplicate certificate fee | \$20.00. |

13:45A-17A.14 (Reserved)**SUBCHAPTER 18. PLAIN LANGUAGE REVIEW****13:45A-18.1 Fee for contract review**

Any creditor, seller, insurer, lessor, or any person in the business of preparing and selling forms of consumer contracts, requesting a review of a consumer contract, or writing required to complete the consumer transaction, to determine its compliance with the Plain Language Act, N.J.S.A. 56:12-1 et seq., shall pay to the Director of the Division of Consumer Affairs a fee in the amount of \$50.00.

R.1982 d.221, effective July 19, 1982.
See: 14 N.J.R. 464(a), 14 N.J.R. 767(b).

SUBCHAPTER 19. PETITION FOR RULEMAKING**13:45A-19.1 Petition for promulgating, amending or repealing rules**

(a) Any interested person may file a petition with the Director of the Division of Consumer Affairs or with any board, bureau, committee or other agency located within the Division to promulgate, amend or repeal a rule.

(b) With respect to a petition for a new rule or an amended rule, the petitioner shall include his or her name and address, the substance or nature of the request, the problem or purpose which is the subject of the request, the petitioner's interest in the request, the proposed text of the new rule or amended rule and the statutory authority under which the requested action may be taken.

(c) With respect to a petition for an amended rule, the petitioner shall indicate any existing text to be deleted and include any new text to be added.

(d) Within 15 days of receiving the petition, the Director shall file with the Office of Administrative Law for publication in the New Jersey Register a notice of petition pursuant to N.J.A.C. 1:30-3.6(a).

(e) Within 60 days of receiving the petition, the Director or the board, bureau or other agency located within the Division shall, pursuant to N.J.S.A. 52:14B-4(f):

1. Deny the petition and provide a written statement of its reasons to the petitioner;
2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or
3. Refer the matter for further deliberations, which shall conclude within 90 days of referral, and either grant or deny the petition under (e)1 or 2 above.

(f) A specific period of more than 90 days for further deliberations under (e)3 above and/or to initiate a rulemaking proceeding under (e)2 above may be agreed upon, in writing, by the petitioner and the Director or the board, bureau or