

MAJOR CHANGES FOR CONTRACTORS AND HOMEOWNERS COMING JULY 1

On July 1, 2009, the Home Improvement Consumer Protection Act takes effect, and its requirements will change the way that most home contractors, subcontractors, and landscapers do business in Pennsylvania. It also changes the rights of homeowners.

The Act applies not only to contractors who own their own contracting businesses, but anyone at all who earns more than \$5,000.00 a year doing home improvement work. What is more, "home improvement work" can mean nearly anything done to a residential home or the adjacent land, including yards, pools, and garages. The Act is very broad - it applies to builders, painters, landscapers, and fix-it men of every variety so long as they earn more than \$5,000.00 a year doing such work. This new law applies to virtually every person who performs work for homeowners, except those who build new homes.

The most basic requirement is that all contractors and subcontractors must register with the Pennsylvania Attorney General's Bureau of Consumer Protection no later than July 1, 2009. After July 1, no person may hold himself out as a contractor or perform any home improvement without first registering with the Bureau. Most importantly, After July 1, no contract can be held enforceable against a homeowner unless it contains the contractor's registration number.

Registration costs \$50.00 and can be done by mail or online at www.attorneygeneral.gov. Once registered, the contractor is issued a registration number which must be posted on all advertisements, contracts, estimates, and proposals created by the contractor after July 1. Consumers can call the Attorney General's toll-free number to find out whether a contractor is properly registered (1-888-520-6680).

The Attorney General requires each contractor to list general information, including the name and location of his business, but more importantly, requires every contractor to disclose important aspects of his professional history. This includes any conviction for fraud, theft, or any criminal offense related to home improvement transactions or fraudulent business practices. The contractor must also provide proof of liability insurance covering personal injury and property damage.

The Act affects how contractors may contract with consumers. A written contract is now required by law, and contracts signed after July 1 are unenforceable against the homeowners unless the registration number of the contractor is on the contract. The contract must contain the entire agreement between the contractor and homeowner, including a starting date and ending date for the work to be performed. The contract must describe in detail the work to be performed and the materials to be used. The contract must include specifications, which cannot be changed without consent by both parties. Any change to the contract must be agreed to, in writing, by both the contractor and homeowner. It must include a provision requiring the contractor to maintain liability insurance of no less than \$50,000.00 for personal injury and property damage. The contract must also include a 'right of rescission,' giving the homeowner the right to cancel the contract within three days of signing, without penalty. There are also notable changes in the form and content of any arbitration clauses in the contract. Finally, the Act includes a number of provisions that are unlawful to include in any home improvement contract. If prohibited clauses

are contained in a contract, the contract may be cancelled by the homeowner.

The Act makes changes as to how contractors may be paid by consumers. In any home improvement contract in which the total price is more than \$1,000.00, the contractor may not request that the consumer pay more than one-third of the total price, plus the cost of any special order materials. Additionally, if more than 45 days have elapsed since the specified starting date of the work and no substantial portion of the work has been performed, then the contractor must refund the consumer's deposit within 10 days of request. Failure to return the money is a third-degree felony.

The Act also changes the rules for home improvement fraud. There are increased penalties for contractors whose deceptive behavior is repetitive or part of a common scheme. The penalties are also increased if the victim is over 60 years old.

The Pennsylvania Home Improvement Consumer Protection Act offers new and meaningful protections for homeowners, especially the elderly. For contractors, these changes may be sudden and unexpected. Any contractor who may be affected by the law should register immediately, as the deadline is very close. Just as importantly, all contractors, subcontractors, and landscapers who perform residential work should have their standard contract reviewed by a lawyer to ensure that the contract complies with the new law. Homeowners who are planning to hire a contractor may also want to seek legal advice to ensure that they understand their new rights.

Tye J. Cressman, Esquire is a lawyer practicing in commercial litigation and transactional law at Pepicelli, Youngs & Youngs, P.C., a general practice law firm in Meadville, located at 363 Chestnut Street.