

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2138

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 2, 2022

The Assembly Consumer Affairs Committee adopts amendments to Assembly Bill No. 2138.

As amended by the committee, this bill repeals current law on the regulation of home improvement and home elevation contractors and establishes the New Jersey State Board of Home Improvement and Home Elevation Contractors as the regulating body of these contractors. Board membership is to consist of nine people, including five home improvement contractors, one home elevation contractor, two members of the public, and one member representing the Executive Branch. The board is to assemble within 30 days of the members being appointed. The board is to license, on a biennial basis, home improvement and home elevation contractors, establish a code of ethics and standards of conduct for contractors, and promulgate rules and regulations as guidance for contractors.

Under the bill, requirements for licensure as either a home improvement or home elevation contractor include demonstrating, through an attestation as prescribed by the board, completion of either 1) an apprenticeship program registered with or approved by the United States Department of Labor, or a similar program as provided by a trade school or other facility that is accredited by a regional or national accrediting agency recognized by the United States Department of Education, that allows an individual to perform services that prepare the individual for a career in home improvement or home elevation or 2) two years, at a minimum, of experience performing home improvement services under the direct supervision of a home improvement contractor for individuals seeking licensure as a home improvement contractor or two years of experience performing home improvement and home elevation services under the direct supervision of a licensed home elevation contractor. An individual applying for licensure is also required to pass an exam to test knowledge of home improvement, and home elevation, if applicable.

In this bill, a responsible managing employee is to be assigned to oversee work as a requirement for contracts for services in home improvement, home elevation, or both types of services. As defined

in the bill, a responsible managing employee is a licensed home improvement or home elevation contractor with at least five years of experience and who provides effective supervision over the professional services rendered pursuant to a home improvement or home elevation contract. A responsible managing employee may also be a home improvement or home elevation contractor who is eligible for licensure if the individual 1) has been registered as a home improvement contractor in New Jersey for at least 10 years or 2) has at least 10 years of experience in providing home elevation services who has been registered as a home improvement contractor in New Jersey for at least 10 years or registered as a home elevation contractor in New Jersey for at least five years. Additionally, a consumer is permitted to waive the three-day waiting period during which the consumer can exercise the right to cancel a contract for a home improvement or home elevation service in the event of a bona fide emergency.

Moreover, this bill requires a licensed contractor to post a bond, letter of credit, or security to demonstrate financial stability. The bill also establishes that a contractor is liable for fines or penalties imposed on a consumer as a result of the contractor's failure to obtain construction permits. Penalties for the failure to complete a home improvement or home elevation in accordance with a contract are deemed an unlawful practice under the consumer fraud statute. A contractor who commits an unlawful practice may be fined up to \$10,000 for a first offense and up to \$20,000 for a second offense.

Exemptions from licensure in the bill apply to sections on 1) licensure requirements; 2) the nonrenewal of a license or licensure revocation or suspension; 3) liability insurance and proof of financial stability; 4) criminal penalties; 5) advertisements; and 6) licensure display. Language in the bill also exempts from licensure individuals currently registered as a home improvement contractor in New Jersey for at least 10 years and individuals who have at least 10 years of experience in providing home elevation services who have been registered as home improvement contractors in New Jersey for at least 10 years or registered as home elevation contractors in New Jersey for at least five years.

Language in current law on home improvement and home elevation contractors that addresses 1) the need for out-of-State individuals to be licensed if work is performed in New Jersey; 2) the filing of a disclosure statement on convictions for certain crimes or offenses; 3) the retention of general liability insurance, and cargo or other insurance covering home elevation services, if necessary; 4) identification badges; 5) the applicability of the law to municipalities; and 6) the establishment of a public information campaign is included in this bill.

COMMITTEE AMENDMENTS:

The committee approved the following amendments to the bill:

(1) update to the definition of contractor to exclude: owners or managers of home improvement or home elevation businesses who do not perform the improvement or elevation services and individuals who strictly sell the services;

(2) exclusion of new residential properties from the definition of “home improvement;”

(3) adding a definition and establishment of the role of a “principal home improvement contractor” and “principal home elevation contractor;”

(4) removal of references to “responsible managing employee;”

(5) adjustments to the membership of the board to remove a home elevation contractor and home improvement contractor; add a licensed construction code official; and stipulate that two home improvement contractors are to represent a trade association on the home improvement industry;

(6) clarification to the board’s role in the development of educational requirements and exam preparation for home improvement and home elevation contractors and require the board to establish continuing education standards;

(7) creation and incorporation throughout the bill of a registration requirement for home improvement and home elevation businesses;

(8) update to requirements for licensure for contractors;

(9) addition of workers’ compensation as a requirement for a registered business and establishment of a tiered system for compliance bonds, letters of credit, or securities, moneys or other security that is to be maintained;

(10) reduction of the amount of a compliance bond, letter of credit, or security, money or other security that is to be maintained if the registered business demonstrates completion of a financial responsibility and stability course;

(11) stipulation that any reduced bond, letter of credit or security, money or other security will be increased if multiple complaints are made by consumers against a business or multiple claims are made against the bond, letter of credit or security, money or other security;

(12) exclusion of individuals who sell home improvement or home elevation services from the requirement for an identification badge unless the sales are made in-person;

(13) the issuance of a temporary badge on paper in the event there is a delay in processing of the identification badge required under the bill;

(14) clarification that registered businesses are to follow advertisement provisions in the bill;

(15) reduction of the number of years from 10 to five under which an individual may be grandfathered under the bill;

(16) addition of homeowners to the provision on the parties a municipality can issue a construction permit to;

(17) establishment of continuing education requirements; and

(18) lengthening of the effective date of the bill.