

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Home Repair Financing Act Regulations

Proposed Readoption: N.J.A.C. 3:19

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance.

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

Calendar Reference: See Summary below for explanation of exemption to calendar requirement.

Proposal Number: PRN 2006-173.

Submit comments by August 4, 2006 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:19, which is scheduled to expire on November 2, 2006 pursuant to N.J.S.A. 52:14B-5.1c. The rules provide a framework for the licensing and regulation of home repair contractors. N.J.A.C. 3:19-1.1 sets forth that home repair contracts are subject to the Home Repair Financing Act (HRFA), N.J.S.A. 17:16C-62 et seq. N.J.A.C. 3:19-1.2 sets forth who will be deemed to require licensing as a home repair contractor and home repair sales persons and sets forth their respective annual licensing fees. N.J.A.C. 3:19-1.3 sets forth the requirements for an exemption

for self-installation arrangements from being deemed a home repair contract under HRFA. N.J.A.C. 3:19-1.4 sets forth the number of home repair contracts a person must participate in to qualify as a home repair contractor. N.J.A.C. 3:19-1.5 sets forth sales and use tax disclosure requirements for home repair contractors. N.J.A.C. 3:19-1.6 sets forth license, reference or certificate number use and disclosure requirements on all contracts, subcontracts, bids and all forms of advertising. N.J.A.C. 3:19-1.7 sets forth, among other things, employment and change of affiliation requirements for home repair sales persons. The Department has reviewed the current rules and has determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

On January 3, 2006, N.J.A.C. 3:19-1.2(c) was proposed to be amended as part of comprehensive rule amendments proposed to implement N.J.S.A. 17:1C-33 et seq. which established a dedicated funding mechanism for the Division of Banking within the Department. See 38 N.J.R. 10(a).

A 60-day comment period is provided on this notice of proposal, and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.3(a)5, governing rulemaking calendars.

Social Impact

The rules proposed for readoption apply to all persons or entities serving as home repair contractors or salespersons in New Jersey. The rules should have a favorable impact on the public and the Department. The readopted rules will continue to allow the Department to fulfill its statutory obligation to regulate home repair contractors engaged in the home repair financing

business, affording the general public an adequate level of protection through licensing, reporting and enforcement.

Economic Impact

It is not expected that the rules proposed for readoption will have a significant negative economic impact on New Jersey home repair contractors. The requirements that they be licensed and make certain disclosures to consumers are reasonable and anticipated commercial requirements. An application fee replaces the annual license fee pursuant to N.J.S.A. 17:1C-33 et seq. (see 38 N.J.R. 10(a)), and is non-refundable. Moreover, the licensing and disclosures required by the rules proposed for readoption will continue to provide a substantial measure of protection to the public, thereby averting potential negative economic consequences to consumers who finance home repair transactions.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption are not subject to any Federal standards or requirements.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption.

The Department invites commenters to submit any data or studies concerning the jobs impact of the rules proposed for readoption together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact as a result of the rules proposed for readoption.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is required because the home repair licensees to whom the rules proposed for readoption apply often employ fewer than 100 full-time employees, and therefore, are "small businesses" as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Reporting and compliance requirements which affect all home repair contractors, regardless of size, can be found in the rules proposed for readoption. See the Summary above for discussion of the reporting and compliance requirements and see the Economic Impact above for a discussion on the costs of these requirements. It is anticipated that home repair licensees will use existing staff for compliance with the rules. No professional services should be required.

Smart Growth Impact

The Department does not believe that the rules proposed for readoption will have any impact upon the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:19.

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