

July 2009

NEWLY ENACTED LAW: PENNSYLVANIA HOME IMPROVEMENT CONSUMER PROTECTION ACT (HICPA)

As of July 1, 2009, HICPA took effect. Contractors who are not registered are prohibited from offering or performing home improvements. Contractors who do commercial work may be subject to HICPA if they do an occasional residential renovation or addition. Work covered under HICPA is broadly defined; for example, it would include constructing a pool house on residential property. This article is not intended to cover all of the requirements of HICPA; rather, the intent is to provide an overview of HICPA.

What is the effective date of HICPA?

July 1, 2009.

Are all contracts subject to HICPA?

No. Only contracts for more than \$500.00 worth of work for consumers in their homes or on the land surrounding their homes.

Are all contractors doing home improvement work covered by HICPA?

No. Only contractors who did more than \$5,000.00 of home improvement work the previous taxable year.

What is considered a home improvement?

Almost any work near a private residence, including driveway, swimming pools, patios, sandblasting and waterproofing.

I'm a contractor doing commercial work, so why should I be concerned about HICPA?

Many contractors doing commercial work will, for better clients, build an addition or do other residential work. Once you do decide to undertake the work, give careful consideration to registering under HICPA.

Who is exempt from HICPA?

Retailers, like Lowe's and Home Depot, with a net worth in excess of \$50,000,000.00 are not required to register. Appliance stores selling appliances are not required to register. Contractors working for them may not be exempt.

What are the registration requirements?

An applicant is required to provide names, home addresses, telephone numbers, driver licenses numbers, social security numbers, etc. The applicant must list any criminal convictions, final civil judgments going back ten years and whether the individual or business has filed for bankruptcy protection. These are just a sampling of the information required to register.

Are there insurance requirements?

Minimum coverage of \$50,000.00 for personal injury and property damage.

With whom do I register?

Register with the Bureau of Consumer Protection of the Pennsylvania Attorney General.

Does HICPA require that my contracts contain certain language?

**It is important
to have your
contracts
conform to this
new ACT.**

Construction/Surety Group

William D. Auxer

Lisa A. Buckalew

Andrew B. Cohn

Amee S. Farrell

Sandhya M. Feltes

Mohammad A. Ghiasuddin

Kevan F. Hirsch

Robert A. Korn

Joshua C. Quinter

Pamela M. Tobin

Union Meeting Corporate Center
910 Harvest Drive
P.O. Box 3037
Blue Bell, PA 19422-0765
(610) 260-6000
fax (610) 260-1240

Other Offices:

Suite 310, LibertyView
457 Haddonfield Road
Cherry Hill, NJ 08002

1635 Market Street
19th Floor
Philadelphia, PA 19103

Visit us on the web at:
www.kaplaw.com

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Yes. Contracts must be signed by the parties and provide approximate start and completion dates, description of the work, materials to be used and a set of specifications. All subcontractors known at the time the contract is signed must be listed. There must be a statement by the contractor that insurance will be maintained for the work and the amount of coverage must be stated. The contractor's registration number must be provided in the contract and on all advertisements.

Do I need to include other information in the contract?

Yes. There must be a right of rescission clearly stated, giving the consumer the right to rescind within three business days. Moreover, contact information for the Bureau must be provided. There are many other requirements as well.

Can I use my current form contract?

Maybe, but substantial revisions will certainly be required.

What happens if my contract doesn't conform to HICPA?

There are provisions which allow the consumer to void all or portions of the contract. For example, any provisions in the contract allowing the contractor to recover counsel fees and costs is prohibited and grounds for the consumer to void the contract.

Are there criminal sanctions for violating HICPA?

Violations can result in a misdemeanor conviction or a third-degree felony. The penalty is greater if the victim is over 60 years of age. Also, the contractor's license can be revoked by the Court.

Are there civil penalties?

HICPA expands the penalties under the Unfair Trade Practices and Consumer Protection Act. If more than 45 days has passed and the work has not begun, the contractor must, within 10 days of receipt of a written request, refund in full all money paid by the consumer.

Are there other things I should know about HICPA?

Many. For example, the contractor must not accept a deposit of more than 1/3 of the cost of the work. All change order work must be memorialized by a written change order signed by the parties.

It is important to have your contracts conform to this new ACT. Please contact us if you have any questions.

Robert A. Korn, Esquire
610.941.2512
rkorn@kaplaw.com