



# City of Philadelphia

Philadelphia, PA 19107

**BILL NO. 060155**

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**Introduced March 2, 2006**

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**Councilmember Kenney**

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**Referred to the  
Committee on Licenses and Inspections**

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## **AN ORDINANCE**

Amending Section 9-1004 of The Philadelphia Code, entitled “Contractors,” by requiring home improvement contractors to enter into a written contracts before performing any job for which they are paid more than a specified amount, and by prohibiting certain conduct by home improvement contractors in the procurement of such contracts and in the performance of services under such contracts, all under certain terms and conditions.

### *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Section 9-1004 of The Philadelphia Code is hereby amended to read as follows:

§9-1004. Contractors.

(1) Definitions.

(a) *“Building.” Any structure containing no more than four residences or dwelling units.*

[(a)] (b) Contractor. Any person who performs or offers to perform any construction, repair, alteration, addition, remodeling, rehabilitation, demolition or any other residential or non-residential construction.

(c) *Home improvement. The construction, repair, replacement, remodeling, alteration, conversion, rehabilitation, renovation, modernization, improvement, or addition to any land or building, or that portion thereof which is used or designed to be used as a residence or dwelling place and shall include but not be limited to the*

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*construction, erection, replacement, or improvement of driveways, swimming pools, terraces, patios, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements to structures or upon land which is adjacent to a dwelling house. "Home improvement" shall not include: (i) the construction of a new home or building or work done by a contractor in compliance with a guarantee of completion of a new building project; (ii) the sale of goods or materials by a seller who neither arranges to perform nor performs directly or indirectly any work or labor in connection with the installation of or application of the goods or materials; (iii) residences owned by or controlled by any governmental body; or (iv) painting or decorating of a building, residence, home or apartment, when not incidental or related to home improvement as herein defined. Without regard to the extent of affixation, "home improvement" shall also include the installation of central heating or air conditioning systems, central vacuum cleaning systems, storm windows, awnings or communication systems.*

(d) *"Home improvement contract." An agreement, whether oral or written, or contained in one or more documents, between a home repair contractor and an owner, or between a home repair contractor and a tenant, regardless of the number of residences or dwelling units contained in the building in which the tenant resides, provided said work is to be performed in, to or upon the residence or dwelling unit of such tenant, for the performance of a home improvement and includes all labor, services and materials to be furnished and performed thereunder.*

(e) *"Home repair contractor." Any person or salesperson, other than a bona fide employee of the owner, who owns, operates, maintains, conducts, controls or transacts a home improvement business and who undertakes or offers to undertake or agrees to perform any home improvement or solicits any contract therefor, whether or not such person is licensed or subject to the licensing requirements of this Section, and whether or not such person is a prime contractor or subcontractor with respect to the owner.*

(f) *"Owner." Any homeowner, cooperative shareholder, condominium unit owner, tenant, or any other person who orders, contracts for or purchases the home improvement services of a contractor or the person entitled to the performance of the work of a contractor pursuant to a home improvement contract.*

(g) *"Salesperson." Any individual who negotiates or offers to negotiate a home improvement contract with an owner, or solicits or otherwise endeavors to procure in person a home improvement contract from an owner on behalf of a home repair contractor, or for himself or herself should the salesperson be also the home repair contractor, whether or not such person is licensed or subject to the licensing requirements of this Section.*

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(2) License required.

(a) No person shall act as a Contractor unless that person possesses a current and valid license issued under this Section.

(b) License exceptions. The following persons shall not be required to obtain a license under this Section:

(.1) owners who perform their own construction and/or demolition work;

(.2) engineers or architects licensed by the Commonwealth of Pennsylvania;

(.3) governmental employees performing construction or demolition activity for their governmental employer as part of their official duties. This exception does not apply to Contractors retained by a governmental entity;

(.4) a Contractor already licensed by the Department; and

(.5) a Contractor who does not perform any job for which the Contractor is paid more than five hundred dollars (\$500).

(c) A license under this Section shall be renewed every three (3) years upon payment of the one hundred and fifty (150) dollar renewal fee, subject to the conditions set forth in subsections 9-1004(3), (4), (5), and (6).

(3) Application Requirements. Applications for a Contractor's license shall be made on forms to be supplied by the Department. No license shall be issued until the applicant:

(a) provides the Department with a copy of the applicant's business privilege license and tax identification number;

(b) provides the Department with proof that the applicant has obtained the insurance required by this Section;

(c) pays a non-refundable application fee of \$150.00; and

(d) complies with any additional requirements imposed by the Department by regulation.

(4) Insurance Requirements.

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(a) All Contractors licensed under this Section shall maintain, at a minimum, the following types and amounts of insurance:

(.1) workers' compensation where applicable: statutory limits;

(.2) comprehensive general liability insurance: in an amount determined by the Law Department and the Risk Manager;

(.3) products and completed operations, and/or errors and omissions: in an amount determined by the Law Department and the Risk Manager; and

(.4) motor vehicle liability insurance: in an amount determined by the Risk Manager.

(b) Copies of insurance certificates shall be submitted to the Department to show proof of insurance coverage before a license will be issued.

(c) Failure to maintain proper insurance, and to provide proof of continued coverage by submitting renewal certificates to the Department, will result in the revocation or non-renewal of the license.

(5) Required Conduct.

(a) Every licensed Contractor shall notify the Department in writing within ten days of any change in any of the information required to be submitted to the Department under § 9-1104(3).

(b) A Contractor must secure all required permits prior to commencement of construction or demolition;

(c) All advertisements and Contractor's stationery shall include the Contractor's license number; and

(d) Contractors must comply with all provisions of The Philadelphia Code.

(e) Contractors must correct any code violation cited by the Department as a result of such Contractor's work activity within the period for compliance specified in the notice from the Department.

(f) Contractors shall maintain complete financial and construction records (including plans) for each job performed, for four years after the completion of the job.

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All such records shall be subject to audit by the Department for a period of four years after the completion of a job.

(6) Prohibited Conduct.

(a) No Contractor shall perform any construction or demolition work without first securing all required permits.

(b) No Contractor shall deviate from or disregard in any material respect the plans and specifications approved by the Department, unless such change has been approved by the Department.

(c) No Contractor shall permit another person to use the license assigned to the Contractor to secure permits or perform activity regulated under this Section.

(d) No Contractor shall provide false information on any license or permit application filed with the Department.

(e) No Contractor shall employ an unlicensed subcontractor to perform any activity regulated under this Section.

*(f) A home repair contractor shall not perform any home improvement for which the home repair contractor is paid more than five hundred dollars (\$500) unless the home repair contractor has entered into a written contract with the owner prior to commencing work, and a home repair contractor shall not deviate from or disregard any terms and conditions of such written contract in any material respect without the written consent of the owner. No such contract shall include any provision whereby the owner waives or is barred from asserting any rights, claims, defenses or remedies available to an owner under this Section or any regulations promulgated hereunder.*

*(g) A home repair contractor shall not make any substantial misrepresentation in the solicitation or procurement of a home improvement contract, or make any false promise of character likely to influence, persuade or induce an owner to enter into a home improvement contract.*

*(h) A home repair contractor shall not commit any fraud in the execution of, or in the material alteration of, any contract, mortgage, promissory note or other document incident to a home improvement transaction.*

*(i) A home repair contractor shall not perform work under a home improvement contract other than in a skillful and competent manner.*

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(7) License Suspension and Revocation; Other Remedies.

(a) The Department may suspend or revoke any license granted under this Section for any of the following reasons, after an administrative hearing conducted after notice of the proposed suspension or revocation has been sent to the licensee:

(.1) repeated failure to comply with the provisions of The Philadelphia Code;

(.2) failure to obtain or maintain the insurance required by this Section;

(.3) failure to pay any fine imposed for a violation of any provision of this Section or of Title 4 of The Philadelphia Code within ten days of imposition by a final order from which all appeals have been exhausted;

(.4) failure to pay a tax or charge imposed in connection with the activity licensed under this Section;

(.5) repeated failure to secure required permits;

(.6) repeated failure to provide the Department with accurate cost estimates of construction activity on permit applications; or

(.7) repeated failure to comply with violation notices issued by the Department.

(.8) conviction of a crime of fraud or dishonesty and connection with the licensed activity.

(b) The Department may refuse to issue permits to any Contractor who has failed to correct any outstanding code violations resulting from work performed under previously issued permits.

(c) License revocation for (.8) above shall be a period of five years.

(8) Penalties.

(a) Notwithstanding any other provision of this Title (including, but not limited to, Section 9-105), any person who violates any provision of this Section or any regulation adopted pursuant to this Section shall have committed a Class II offense and be subject to the fines set forth in subsection 1-109(2) of The Philadelphia Code or to

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imprisonment not exceeding ninety (90) days or to both. The penalties set forth in this subsection (8) shall be in addition to the remedies set forth in subsection (7).

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**Explanation:**

[Brackets] indicate matter deleted.  
*Italics* indicate new matter added.

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