

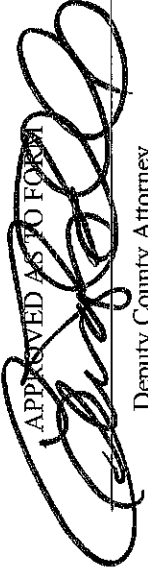
Introduced by the County Executive: and Presiding Officer Norma Gonsalves

LOCAL LAW NO. 12 - 2014

A LOCAL LAW AMENDING TITLES D, D-1 AND D-2 OF CHAPTER 21 OF THE ADMINISTRATIVE CODE OF NASSAU COUNTY.

Passed by the Nassau County Legislature on August 4, 2014
Voting: ayes: 19 nays: 0 abstainrd: 0

Became a law on August 6, 2014 with the approval of the County Executive.

APPROVED AS TO FORM

Deputy County Attorney

WHEREAS, there are several parts of the Administrative Code dealing with the powers and responsibility of the Office of Consumer Affairs which are problematic or otherwise out of harmony with certain other provisions of that part of the Administrative Code; and

WHEREAS, the extraordinary restitution for the victims of fraudulent home improvement practices regularly strains the Home Improvement Restitution Fund and threatens to deprive some consumers of *any* restitution; and

WHEREAS, a single enactment by this Legislature would be the most efficient and expeditious method of improve the Administrative Code in regards to the Office of Consumer Affairs; therefore

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Paragraph (a) of Subdivision 4 of Section 21-10.2 of Title D of Chapter 21 of the Administrative Code of Nassau County as enacted by Local Law No. 2-1970 and amended

by Local Law No. 19-1990, Local Law No. 25-2000 and Local Law No. 20-2002 is amended to read as follows:

The violation of any provision of this section or of any rule or regulation promulgated hereunder shall render the violator liable for the payment to the County of a civil penalty, recoverable in a civil action, in the sum of not more than \$5,000 for each violation, together with, in each instance, the cost of the investigation incurred by the Commissioner.

§ 2. Subdivision 3 of Section 21-11.1 of Title D-1 of Chapter 21 of the Administrative Code of Nassau County as enacted by Local Law No. 6-1970 and amended by Local Law No. 3-1981, Local Law No. 2-1995, Local Law No. 20-2002, and Local Law No. 10-2004 is amended to read as follows:

"Home Improvement" means repair, maintenance, replacement, remodeling, alteration, conversion, modernization, or addition to any land or building, or that portion thereof, which is used as a private residence or dwelling place for not more than three families, and other improvements to structures or upon land which is adjacent to a dwelling, and shall include, but not be limited to, the installation, construction, replacement or improvement of driveways, swimming pools, porches, garages, sheds, central heating or air conditioning systems, vacuum cleaning systems, windows and awnings, sandblasting, power washing, waterproofing, floor refinishing, chimney cleaning, interior and/or exterior painting, carpet installation, demolition, mold remediation services and gardening/landscaping, when the gardener/landscaper uses his/her own equipment in the conduct of his/her business and uses his/her vehicle to transport such equipment. "Home Improvement" shall not include (a) the construction of a new home building or work done by a contractor in compliance with a guarantee of completion of a new building project, or (b) the sale of goods or materials by a seller who neither arranges, to perform nor persons directly or indirectly any work or labor in connection with the installation of goods or materials, or (c) decorating when not incidental or related to home improvement work as herein defined, or (d) residences owned by, the state or any municipal subdivision thereof, or (e) automatic fire alarm systems, or (f) burglar alarm systems.

§ 3. Subdivision 1 of Section 21-11.10 of Title D-1 of Chapter 21 of the Administrative Code of Nassau County as enacted by Local Law No. 6-1970 and amended by Local Law No. 12-1992 is amended to read as follows:

An individual who performs labor or services for a licensee as an employee thereof.

§ 4. Paragraph (F) of Subdivision 5 of Section 21-11.16 of Title D-1 of Chapter 21 of the Administrative Code of Nassau County as enacted by Local Law No. 12-1992 and amended by Local Law 10-2005 is hereby repealed.

§ 5. Subdivision c of Section 21-12.5 of Title D-2 of Chapter 21 of the Administrative Code of Nassau County as enacted by Local Law No. 19-2007 is hereby amended to read as follows:

c. The Commissioner shall require that applicants for licenses issued pursuant to this title be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship the general partners if the applicant is a partnership; and the officers, principals, directors, stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation and employees of each entity. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Criminal histories secured pursuant to this provision shall be subject to a review by the Commissioner or by the Commissioner's designee.


§ 6. Section 21-12.6 of Title D-2 of Chapter 21 of the Administrative Code of Nassau County as enacted by Local Law No. 19-2007 is hereby amended to read as follows:

Refusal to issue or renew, or suspension or revocation based on criminal conviction. In addition to any of the powers that may be exercised by the Commissioner pursuant to this Title, the Commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this Title if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the Commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this Title or has been convicted of any other crime which would provide a justification for the Commissioner to refuse to issue or renew, or to suspend or revoke, such license. If a prospective applicant has been convicted of a specified criminal activity, any decision by the Commissioner regarding such prospective applicant's fitness for a license must be made with consideration of New York State Corrections Law §§ 701 through 703 and §§751 through 753.

§ 7. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 8. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§ 9. This local law shall take effect immediately.

APPROVED

County Executive
DATE Aug. 6, 2014