



**THE NASSAU COUNTY LEGISLATURE
OFFICE OF LEGISLATIVE BUDGET REVIEW
MAURICE CHALMERS, DIRECTOR
FISCAL IMPACT STATEMENT**

TITLE:

A local law to amend Titles D, D-1, and D-2 of Chapter 21 of the County Administrative Code.

SUMMARY OF LEGISLATION:

The Administrative Code amendments proposed in this local law would alter the authority of the Office of Consumer Affairs (OCA). According to the Administration, OCA is seeking these amendments to safeguard and protect homeowners from unscrupulous businesses.

The proposed amendment to Title D, Section 21-10.2 of the Administrative Code eliminates the current penalty scale for unfair trade practice violations and replaces it with a maximum fine up to \$5,000 for each violation. Currently, the Commissioner of Consumer Affairs (the Commissioner) may assess a minimum penalty of \$1,000 and a maximum penalty of up to \$2,500 for the first violation, a minimum of \$2,500 and a maximum of up to \$4,000 for the second, and a penalty of up to \$5,000 for the third and subsequent violations. According to the Administrative Code, an unfair trade practice is any practice that has the effect of deceiving or misleading consumers and is done in conjunction with a sale, lease, rental, or loan of consumer goods. When asked for an example of an unfair trade practice, the OCA cited a case in which a gas station owner increased prices while a customer was filling his tank.

The first amendment offered to Title D-1, Section 21-11.0(2), adds demolition and mold remediation services to the list of industries licensed by the OCA. The OCA believes these services are already under the department's purview, but sought this clarification to prevent future litigation.

The second amendment to Title D-1, Section 21-11.10(1) would close a loophole that has allowed unlicensed home improvement contractors to operate in Nassau County. Currently, Section 21-11.10(2) defines the term "Contractor" as any entity or individual providing home improvement services, whether they are licensed or not. Employees of contractors are exempt from the County's licensing requirements. Unlicensed contractors have employed salespeople to legally obtain work in the County. The amendment closes the loophole by substituting the term "Licensee" for "Contractor" in Section 21-11.10(1). This would permit OCA to enforce the law against those seeking to sell services of unlicensed contractors in Nassau County.

Pursuant to Section 21-11.16(5)(F) of the Administrative Code, the Commissioner currently has the authority to make up to \$60,000 in restitution payments under certain requirements. Homeowners are eligible for the \$60,000 payment, if the contractor did not maintain sufficient liability insurance or abandoned the project in an unsafe manner, among other reasons. The third amendment to Title D-1 has been proposed to prevent the exhaustion of the Home Improvement Restitution Fund, a non-operating

fund. This Fund was established with the addition of Section 21-11.16 to the Administrative Code, is administered by the Commissioner, and financed by a one-time \$50.00 fee made by contractors when they receive their initial license. Although the section authorizing the maximum of the \$60,000 in restitution is being eliminated, the Commissioner is still authorized to make payments of up to \$10,000 to homeowners who have obtained a monetary judgment against a home improvement contractor.

The local law would repeal Section 21-11.16 (5)(F) of the Administrative Code. Eliminating this section does not disqualify Homeowners from restitution payments up to \$10,000 pursuant to Section 21-11.16. As of July 16, 2014, the Home Improvement Restitution Fund has a balance of \$667,848.

The last amendment is to Title D-2, Section 21-12.5(C) and 21-12.6. This revision changes language in the Locksmith Licensing process to ensure individuals with criminal backgrounds are not licensed by the County.

EFFECTIVE DATE:

This law shall take effect immediately.

ECONOMIC IMPACT:

This local law is not expected to impact the economy.

FISCAL IMPACT:

The amendments in the proposed local law should have a minimal fiscal impact on the County's operating budget. The only potential impact is that the increased unfair trade practice penalty may generate additional revenue for OCA.

Over the past five years, the department has reported an average of 206 violations per year. The OCA could generate up to \$1.0 million in penalty revenue in an average year should the Commissioner assess the maximum penalty for each violation. The table below lists fine revenue for FY 2009 to FY 2013.

Year	Fine Revenue
2009	\$719,506
2010	\$471,800
2011	\$542,978
2012	\$481,437
2013	\$610,950

SOURCES OF INFORMATION:

Office of Consumer Affairs

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