Chapter 135

CONTRACTORS

[HISTORY: Adopted by the Legislature of the County of Putnam 8-6-2019 by L.L. No. 9-2019.[1] Amendments noted where applicable.]

§ 135-1. Title.

This chapter of the Code of Putnam County shall be entitled and known as the "Putnam County Home Improvement Contractor Registration Law."

§ 135-2. Legislative intent.

It is the purpose of the Legislature of Putnam County in enacting this chapter to safeguard and protect the homeowner against abuses on the part of home improvement contractors by regulating the home improvement, remodeling, and repair businesses and by requiring the registration of persons engaged in such business. Such registration will protect and promote the health, safety, and welfare of the residents of the County of Putnam, pursuant to § 10, Subdivision (12), of the Municipal Home Rule Law.

§ 135-3. Applicability.

A. Nothing set forth in this chapter shall subject the County of Putnam or its officials, agents, or employees to liability for damages or otherwise arising out of or related to the conduct of any home improvement business by a registrant.

B. The Director is empowered to establish administrative procedures to carry out the provisions of this chapter in conformity with the provisions thereof.

C. The provisions of this chapter shall not apply to persons engaged in the following types of activities:

(1) The sale or construction of a new home other than a custom home as defined in § 135-4.

(2) 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 or application of the goods or materials.

(3) Work performed upon a residence by the owner, or upon a building owned by or controlled by any federal, state, or local government, including school districts.

(4) The sale or installation of appliances, such as stoves, refrigerators, freezers, room air conditioners, dishwashers, clothes washers or dryers, which are designed to be removable from the premises without material alteration thereof.

(5) The sale or installation of decorative goods or services, such as bound carpets or area rugs.

(6) The performance of repairs, replacements, or other services pursuant to an express or implied warranty, or a maintenance agreement as defined in § 395-a of the New York State General Business Law.

(7) The provisions of this chapter shall not apply to any home improvement to be performed under a home improvement contract entered into prior to the effective date of this chapter.

(8) Plumbing, as defined in Chapter 190, Plumbers.

(9) Electrical, as defined in Chapter 145, Electricians.

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1. **Editor's Note: This ordinance also repealed former Ch. 135, Contractors, adopted 5-7-1991 by L.L. No. 5-1991, as amended.**

(10) Work or services performed by a person within the scope of an occupation, craft, or profession in which such person has met the standards of competency or experience established by state law as a condition to engaging in such occupation, craft, or profession.

§ 135-4. Definitions. [Amended 12-7-2021 by L.L. No. 14-2021]

As used in this chapter, the following terms shall have the meanings indicated:

APPEARANCE TICKET — A written notice issued and subscribed by the Director of Consumer Affairs, or his or her designee, directing a person to appear at a designated future time in connection with the alleged commission of a violation of this chapter. A notice conforming to such definition constitutes an appearance ticket even if referred to by any other name or title.

BOARD — The Board of Home Improvement Contractors of Putnam County, as provided by this chapter.

CUSTOM HOME — A new single-family residence to be constructed on premises owned of record by the purchaser at the time of contract, provided that such residence is intended for residential occupancy by such purchaser and the contract of sale is entered into on or after the first day of March, nineteen hundred ninety.

DIRECTOR — The Director of the Putnam County Office of Consumer Affairs/Weights and Measures/Trades Licensing and Registration.

FIXED MEMBERSHIP — A specific number of memberships established in the rules governing an organization. Specifically, the fixed membership of the Board of Home Improvement Contractors is nine, including filled and unfilled positions.

HOME IMPROVEMENT —

A. The repair, replacement, remodeling, refinishing, installation, construction, alteration, conversion, modernization, beautification, maintenance, improvement, or addition to a parcel of land designated by a tax map number or a building or that portion thereof which is used or designed to be used as a private residence apartment or dwelling place, including, but not limited to:

(1) Asphalt or blacktop or driveway sealing.

(2) Landscaping and gardening.

(3) Arboriculture.

(4) Lawn mowing/ground maintenance/leaf blowing. (Note: shall not apply to full-time students under the age of 22 engaged in seasonal or part-time employment and who do not have employees.)

(5) Swimming pools.

(6) Porches, patios, terraces, decks, retaining walls, and any other outdoor stonework.

(7) Garages and garage doors.

(8) Central vacuum cleaning systems.

(9) Windows, doors, and skylights.

(10) Septic systems.

(11) Insulation.

(12) Waterproofing.

(13) Tiling.

(14) Fencing.

(15) Painting and wall coverings.

(16) Flooring and wall-to-wall carpeting.

(17) Masonry.

(18) Roofing.

(19) Awnings or siding.

(20) Antennas or satellite dishes.

(21) Carpentry.

(22) Excavation.

(23) Environmental reclamation.

(24) Other interior or exterior improvements.

(25) Window and door treatments.

(26) Solar panels.

(27) Gutters and leaders.

(28) Chimney cleaning, installation, and repairs.

(29) Drywall and taping.

(30) Air duct cleaning.

(31) Pressure washing.

B. "Home improvement" shall also mean the construction of a custom home, installation of home improvement goods, or furnishing of home improvement services.

HOME IMPROVEMENT BUSINESS — The business of providing a home improvement to an owner for a profit, fee, remuneration, favor, or as part of a barter agreement. For purposes of this chapter, a "barter agreement" is defined as an exchange of things (such as products or services) for other things instead of for money.

HOME IMPROVEMENT CONTRACT — An agreement for the performance of home improvement, between a home improvement contractor and an owner, and where the contract price specified exceeds $500.

HOME IMPROVEMENT CONTRACTOR — Any person, firm, or corporation who owns, operates, maintains, controls, transacts, or conducts a home improvement business or who undertakes or advertises a home improvement service, or offers to undertake or agrees to perform any home improvement for the owner for a fee, remuneration, favor, or as part of a barter agreement, and whether or not such person is a prime contractor, or subcontractor with respect to the owner, other than a bona fide employee of the registrant. "Home improvement contractor" does not include a person, firm, corporation, landlord, cooperative corporation, condominium board of managers, joint tenant, or cotenant that owns, in whole or in part, the property to be improved.

LEGISLATURE — The Putnam County Legislature.

NOTICE OF CHARGES — A written notice setting forth the particulars of the alleged violation(s) of this chapter, the date and time of the hearing, and the hearing procedures set out in § 135-22B(1).

OWNER — Any homeowner, tenant, or any other person who orders, contracts for, or purchases a home improvement or the service of a contractor, or the person entitled to the performance of the work of a contractor

pursuant to a home improvement contract.

PERSON — For purposes of this chapter, the term "person" shall include an individual, partnership, corporation, business organization, or other similar legal entity.

REGISTRANT — A person registered and authorized to engage in the home improvement business under the provisions of this chapter.

SUBCONTRACTOR — A person, other than a supplier of materials, laborer, or bona fide employee of a contractor, who enters into a contract, written or verbal, with a contractor for the performance of any part of the contractor's contract, or a subcontractor's contract, as the case may be, and who does not perform work other than as a subcontractor.

SUBSTANTIAL EVIDENCE — Evidence that a reasonable mind could accept as adequate to support a conclusion; evidence beyond a scintilla.

§ 135-5. Powers and duties of Director.

The Director shall have the following powers and duties in addition to those elsewhere prescribed in this chapter:

A. To be responsible for the direct daily supervision of the Secretary to the Board, the Compliance Enforcement Officer(s) and any other employees of the Office of Consumer Affairs/Weights and Measures/Trades Licensing and Registration.

B. To establish categories of registration under this chapter and to set fees therefor, subject to the approval of the Board and Legislature.

C. To examine the qualifications and fitness of registrants for registration under this chapter.

D. To register applicants possessing the requisite qualifications.

E. To suspend or revoke registrations in accordance with the various terms and provisions of this chapter.

F. To keep records of all registrations issued, suspended, or revoked.

G. To employ experts, clerks, and secretaries and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the Legislature (for such Board).

H. To adopt such rules and regulations not inconsistent with the provisions of this chapter as may be necessary with respect to the form and content of applications for registration, the receipt thereof, the investigation and examination of applicants and their qualifications, and the other matters incidental or appropriate to his powers and duties as prescribed by this chapter and for the proper administration and enforcement of the various provisions of this chapter, and to amend or repeal any of such rules and regulations.

I. To suspend the registration of any person pending payment of any fine or penalty, pending compliance with any order of the Director or the Office of Consumer Affairs or with any other lawful order of the Office of Consumer Affairs.

J. To automatically suspend the registration of any person who has failed to maintain the required insurance or bond, as outlined in § 135-25 hereof, during the full term of his or her registration, which such suspension shall be retroactive to the date upon which said insurance or bond had been canceled or revoked, and to reinstate any such registration upon proof that the aforesaid insurance or bond requirement has been fully complied with.

K. To issue appearance tickets, summonses, information, or any other legal process necessary to effectuate the provisions of this chapter.

L. To receive and keep complaints from any person relating to a contractor or home improvement business . The Director has the authority to investigate any such complaint at his discretion. The Director may consider any complaints in determining an application for registration or renewal application, regardless of whether the complaint was found to be a violation of this chapter.

M. To mediate disputes arising from complaints made to the Office of Consumer Affairs by consumers against any contractor or home improvement business.

§ 135-6. Board of Home Improvement. [Amended 12-7-2021 by L.L. No. 14-2021]

A. Board established. There shall be a Board of Home Improvement Contractors ("Board" or "Home Improvement Board") consisting of nine members, each of whom shall be a resident of the County or own a business within the County. (See definition of "fixed membership" in § 135-4.)

B. The Board shall interview all candidates for Board membership and submit its recommendations with all candidates' resumes to the Legislature.

C. Board members shall be appointed by a majority vote of the Legislature. Board members shall serve a term of two years and at the pleasure of the Legislature.

D. Composition of Board. The composition of the Board primarily shall be a representative group of people with home improvement trade experience who are actively engaged or retired from the trade. The Board shall also include those who have no home improvement trade experience at all. At no time shall the composition of the Board interfere with the viability of the Board to perform its duties and to adhere to its responsibilities. A representative group may include:

(1) Home improvement contractors.

(2) Licensed engineers.

(3) Registered architects.

(4) Building inspectors.

(5) Tradesmen.

(6) Citizens independent of the home improvement business.

E. Secretary. There shall be a Secretary to the Board who shall be appointed by the County Executive. The Secretary shall report to the Director of the Office of Consumer Affairs, Weights and Measures and Trades Licensing.

F. Chairperson and Vice Chairperson. The Board, by majority vote of the fixed membership of the Board, shall elect a Chairperson and Vice Chairperson, each of whom shall serve a two-year term.

G. Quorum. A majority of the fixed membership of the Board shall constitute a quorum for the transaction of business. A quorum may be achieved by members attending in person or by Board-approved electronic means that allow for simultaneous visual and aural communication throughout the entire deliberative session.

H. Voting. The basis for decisions by the Board shall be the majority vote by the fixed membership of the Board, i.e., five out of nine.

I. Vacancies. In the event of a vacancy on the Board, the Board shall send its recommendation to the Legislature and the remainder of the vacating member's term shall be filled by appointment by the Legislature.

J. Removal. A Board member, upon recommendation by the Board, may be removed by majority vote of the Legislature for misconduct or malfeasance in office, incompetence, incapacity, neglect of duty, chronic

absenteeism, or other good and sufficient cause.

§ 135-7. Powers and duties of Board.

The Board shall have the following powers and duties:

A. Rules and regulations. The Board shall promulgate its own rules and regulations with respect to its proceedings and with respect to any matter over which it has jurisdiction, including the conduct of examinations, subject to guidelines set forth in the Putnam County Legislative Manual for the setting of agendas, conduct of meetings, and keeping of minutes. The rules and regulations established by the Board shall not supersede the provisions of this chapter. The Board shall prepare a manual of its duly adopted rules and regulations, which shall be made available for public inspection, and file the same with the Clerk of the Legislature. The Board shall file with the Clerk of the Legislature a copy of every rule, regulation and/or amendment thereto, and every decision, determination, and/or appeal thereof, and the same shall be public record.

B. Meetings. The Board shall hold at least seven meetings a year at the call of the Chairperson and at such other times as the Board may determine necessary or desirable for the efficient discharge of the business of the Board at the call of the Chairperson or upon written request by two Board members. All members shall be provided with a minimum of one week's prior written or oral notice of a meeting or otherwise to the extent practicable at a reasonable time prior to the meeting.

C. Minutes/voting records. The Board shall keep minutes of its meetings and proceedings, which shall consist of a record or summary of all motions, proposals, resolutions, and any other matter formally voted upon and shall include a record of the final vote of each member, including any abstentions (and the reason therefor) or absences.

(1) Within two weeks from the date of such meeting, the Secretary shall provide the members of the Board with copies of the proposed minutes and shall make copies of such minutes available to the public. The minutes made available to the public shall be clearly identified as "draft" and/or "unapproved." Upon approval of the minutes pursuant to Subsection (2) and (3) of this section, the Secretary shall replace any "draft" or "unapproved" minutes available for public inspection with a copy marked "approved."

(2) The Board shall consider draft and/or unapproved minutes for approval at the next regular Board meeting.

(3) Any mistakes, errors, or omissions noted by the Board shall be corrected by the Secretary and the revised minutes shall again be considered by the Board.

(4) Within 30 days after approval by the Board, the minutes shall be filed with the Clerk of the Legislature.

(5) The Office of Consumer Affairs shall retain all tape recordings for one year.

D. Records. The Office of Consumer Affairs shall maintain a record of all registrations issued, suspended, or revoked under the provisions of this chapter in accordance with Putnam County's records retention and disposition policy.

E. Complaints. The Board shall have the power to hold hearings on charges of violations of this Code, to make formal findings of facts, and to impose civil penalties and sanctions in accordance with the law.

F. Subpoena power. Pursuant to New York Civil Practice Law & Rules § 2302(a), the Board shall have the power to issue, and cause to be served, subpoenas for the production of books, records, and documents and appearance of witnesses at any duly-convened hearing of the Board.

G. Fees. The Board shall have the power to collect fees or to cause fees to be collected for the issuance and/or renewal of registrations hereunder. Such fees shall be in accordance with fee schedules duly adopted by the

Legislature.

H. Recommendations. The Board shall make recommendations to the Legislature regarding any matter relating to the administration of this chapter, including proposed amendments thereto.

I. Suspension/revocation/civil penalties. The Board shall have the power to suspend and/or revoke registrations issued hereunder and/or assess and impose civil penalties for cause as prescribed by the provisions of this chapter. Such civil penalties shall be in accordance with the fee schedules duly adopted by the Legislature.

J. Experts/consultants. Subject to legislative approval and appropriation of funds, the Board may hire experts and/or consultants and pay for their services as may be necessary and appropriate in the conduct of its business.

K. Oaths. The Chairperson of the Board or his/her designee shall be empowered to administer oaths.

§ 135-8. Registration required.

A. Registration required. Within the County of Putnam, no person shall engage in home improvement work or maintain, conduct, or operate a home improvement business as a general contractor, subcontractor, or contract employee, or hold himself or herself out as being able to do so, unless such person is registered pursuant to this chapter.

B. Exceptions.

(1) No registration shall be required of any person who performs labor or services for a contractor or subcontractor that is duly registered hereunder, and such person is classified as an employee, not an independent contractor, as defined by the Internal Revenue Service.

(2) A license issued by the Putnam County Plumbing Board or the Putnam County Board of Electrical Examiners shall be deemed a registration in compliance with this section for the benefit of the holder thereof to perform work within the scope of his or her profession.

C. Working while registration suspended, revoked, or expired.

(1) Within the County of Putnam, no person shall engage in home improvement work or maintain, conduct, or operate a home improvement business as a general contractor, subcontractor, or contract employee, or hold himself or herself out as being able to do so, while his or her registration has been suspended or revoked by action of the Board.

(2) Within the County of Putnam, no person shall engage in home improvement work or maintain, conduct, or operate a home improvement business as a general contractor, subcontractor, or contract employee, or hold himself or herself out as being able to do so, while his or her registration has expired.

D. A person shall be deemed unregistered in violation Subsection A above if that person performs home improvement work outside the scope of any registration issued pursuant to this chapter. **[Added 12-7-2021 by L.L. No. 14-2021]**

§ 135-9. Application procedure and educational requirements.

A. Application procedure.

(1) An application for an original or renewal registration shall be in writing upon a form prescribed by the Director. The Director may seek from an applicant sufficient relevant information about the applicant's character, experience, and other information necessary to evaluate the applicant's qualification to be registered.

(2) Each applicant shall provide forms of identification as determined and posted by the Director as a

precondition to the issuance of a registration.

(3) Each applicant shall provide a list of employees who are currently employed by the applicant and who engage in home improvement work as defined by this chapter.

B. Educational requirements.

(1) All home improvement businesses that offer to provide or provide lawn or turf services must show proof of completion by the owner of such business of a best management practices course for lawn and garden care approved by the Putnam County Commissioner of Health when applying for registration or renewal registration.

(2) The participation and completion of a best management practice course for lawn and garden care is a one-time education requirement, unless directed otherwise in accordance with this section. Once proof is accepted by the Director, it shall apply to each subsequent renewal application thereafter as further prescribed under this chapter.

(3) If a registered home improvement business can provide a certificate that verifies that he/she has participated and completed a best management practices course for lawn and garden care from another municipality and/or state, such certificate shall be deemed acceptable for compliance with this section.

(4) The Director, in consultation with the Putnam County Commissioner of Health, may require the participation of such persons at additional informational seminars and/or courses at reasonable times but no more than once per year in order to ensure that all persons are informed of developing issues, technologies, and laws which may impact the performance of services by such persons in Putnam County.

(5) The Director, in consultation with the Putnam County Commissioner of Health, shall have the authority to adopt rules and regulations as may be deemed necessary for the administration and enforcement of this section.

§ 135-10. Registration.

A. An application for an original or renewal registration shall be in writing upon a form prescribed by the Director. The Director may seek from an applicant sufficient relevant information about the applicant's character, experience, and other information necessary to evaluate the applicant's qualification to be registered.

B. Each application, except for a business engaged in lawn mowing/ground maintenance/leaf blowing, shall be accompanied by proof of insurance and bonding as outlined in § 135-25 below.

C. Each applicant shall provide forms of identification as determined and posted by the Director as a precondition to the issuance of a registration.

D. Each applicant for an original or renewal registration, when applicable, shall provide the Director with proof of completion of a best management practices course for lawn and garden care as required pursuant to this chapter.

E. Term. Each registration issued pursuant to this chapter shall be valid for a term of two years from the date the application is granted.

F. Renewals. Applications for renewal of a registration duly issued under the provisions of this chapter shall be submitted to the Secretary of the Board in the form prescribed by the Director prior to the expiration date of the registration and shall be accompanied by the appropriate registration fee. Upon request, applicants for renewal must provide such proof as may be necessary and appropriate to demonstrate the applicant's qualifications, competency and fitness to carry on the trade for which he or she is registered.

G. Late renewal. If an application for renewal is not made within the time prescribed herein, the Director may nevertheless renew the registration. In such event, before the renewal may be issued, the registrant must submit his or her application for renewal and pay the appropriate late fee, as set by the Board and approved by the Legislature, in addition to the renewal fee. No application for renewal will be accepted more than one year after expiration of the registration.

H. Revocation of renewal privileges.

(1) Failure to renew a registration issued under the provisions of this chapter within six months after expiration thereof may result in the revocation of all renewal privileges hereunder. The Director may schedule a hearing on notice to the registrant to be conducted in accordance with the procedures outlined in § 135-22 herein.

(2) Failure to renew a registration issued under the provisions of this chapter within one year after expiration thereof shall result in the automatic revocation of renewal privileges hereunder. Such revocation of renewal privileges shall be on notice to the registrant. Such revocation is not subject to a hearing in accordance with the procedures outlined in § 135-22 herein, and shall occur automatically by operation of law one year after expiration of the registration.

(3) Any person desiring a registration after such revocation of renewal privileges shall be required to submit a new application for registration in accordance with the provisions of this chapter. The new application must include the payment of all applicable fees, including late fees accrued by failing to timely renew the prior registration.

I. Waiver of renewal.

(1) If a current registrant does not wish to renew his or her registration, such person must submit written notification to the Secretary of the Board advising that such person is waiving renewal and allowing the registration to naturally expire. Once expired, such registration may not be renewed. To reregister in the future, such person must submit a new application pursuant to the requirements of this chapter.

(2) A waiver of renewal submitted within 60 days after the expiration of the term of registration precludes imposition of any late fees authorized pursuant to § 135-10F above.

(3) A waiver of renewal submitted more than 60 days after the expiration of the term of registration allows the imposition of late fees accrued up to the date the waiver is submitted.

J. Military service exceptions.

(1) Registrants who are called to active duty will have their registrations put on inactive status as of the date of their deployment. Upon return from active duty, the registrant will provide documentation to the secretary of the Home Improvement Board detailing the dates of his or her deployment and proof he or she meets all other requirements of the Home Improvement Law prior to the reactivation of his or her inactive status registration. If the deployment was greater than 30 days, the registrant will be credited for each day of military deployment, and his or her registration will be extended by a similar number of days.

(2) Once the reactivated registration expires, the registrant's renewal registration will be credited with the same amount of credit time as the hold accrued during his or her inactive status period. All fees charged for that year will be prorated to take into account this credit time.

(3) This military service exception will be retroactive to any deployment that occurred after September 11, 2001.

§ 135-10.1. Hiring and duties. [Amended 12-7-2021 by L.L. No. 14-2021]

A. No person who is registered pursuant to this chapter shall hire any person to perform home improvement work in Putnam County as a subcontractor or contract employee unless the hired person is registered under this chapter.

B. Any person who is registered pursuant to this chapter shall respond to the Board's requests for specific employment information regarding his or her employees who perform home improvement work. The registered contractor must provide the specific information requested by the Board within the period of time specified in such request.

§ 135-10.2. Denial of registration or renewal. [Amended 12-7-2021 by L.L. No. 14-2021]

A. The Director, or his or her duly authorized designee, shall grant the registration or renewal within 60 days after receipt of a complete application in proper form. The Director, or his or her duly authorized designee, may deny the application if it is determined that the applicant:

(1) Is not financially responsible.

(2) Is unqualified to engage in the home improvement business.

(3) Has failed to furnish information as required.

(4) Has made a false statement of a material fact or a material omission in the application for the registration.

(5) Has consistently failed to perform contracts.

(6) Has failed to carry and maintain workers' compensation insurance, public liability insurance, or surety bond as required by this chapter.

(7) Has failed to pay civil penalties imposed after a hearing held by the Board upon a violation of this chapter, or has failed to pay any fee or late fee incurred under any provision of this chapter.

(8) Has been subject to the imposition of penalties or sanctions as a result of a hearing held by the Board upon a violation of this chapter on at least two occasions in the past two years.

(9) Is applying following a period of revocation and has not demonstrated that he or she is fit to be registered.

B. A denial of a registration or renewal shall be made by the Director in writing and shall set forth a statement of the reason or reasons therefor. If the registration or renewal is denied, the applicant may, within 10 days from the date the notice of denial is mailed, request a hearing. Such hearing must be held within 30 days of the request and a decision must be rendered within 45 days from the date of the hearing. Said hearing shall be conducted in accordance with the procedures outlined in § 135-22 hereof.

C. The determination made by the Director shall be subject to judicial review in accordance with Article 78 of the New York State Civil Practice Law and Rules in a proceeding brought within four months after the Director issues a written denial.

§ 135-11. Prohibited acts.

The following acts are strictly prohibited:

A. Abandonment or failure to perform, without justification, any home improvement contract or project engaged in or undertaken by the contractor.

B. Making any substantial misrepresentation in the procurement of a home improvement contract, or making any false promise likely to influence, persuade, or induce.

C. Any fraud in the execution of or in the material alteration of a home improvement contract, or making any false promise likely to influence, persuade, or induce.

D. 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.

E. Any fraud in recommending the installation, repair, or replacement of any item the registrant knew or should have known was not required.

F. Making a false statement or providing false information in making an application for registration, including a renewal or duplicate.

G. Making a false statement or providing false information when responding to the Board's request for information regarding current or former employees employed by the registrant.

H. Making a false statement or providing false information in completing the "no employee" affidavit (Form CE 200) workers' compensation waiver.

I. Preparing or accepting any mortgage, promissory note, or other evidence of indebtedness upon the obligation of a home improvement transaction with knowledge that it represents a greater monetary obligation than the agreed-upon consideration for the home improvement work.

J. Directly or indirectly publishing any advertisement relating to home improvements which contains an assertion, representation, or statement of fact which is false, deceptive, or misleading.

K. Conducting a home improvement business in any name other than the one in which the contractor is registered.

L. Failure to notify the Director, in writing, of any change of control in ownership, management name, business name, or location.

M. Failure to respond to the Board's request for information regarding anyone employed or formerly employed by the registrant.

N. Failure to comply with any order, demand, or requirement made by the Director or Board pursuant to the various provisions of this chapter.

O. Failure to list registration number in any and all advertisements for the registered home improvement contracting business.

P. Failure to maintain the proper insurances or bonding as required by § 135-25, herein.

Q. Conducting a home improvement business by a registered home improvement contractor who has completed the "no employee" affidavit (Form CE 200) and is found in violation of the workers' compensation waiver.

R. Failure to provide proof of completion of a best management practices course for lawn and garden care, as required by § 135-4 hereof.

§ 135-12. Home improvement contract standards.

A. Every home improvement contract as defined herein shall be evidenced by a writing and shall be signed by all parties to the contract. The writing shall contain the following:

(1) The name, address, telephone number, or registration number of the contractor.

(2) The approximate dates, or estimated dates, when the work will begin and be substantially completed, including a statement of any contingencies that would materially change the approximate or estimated completion date. In addition to the estimated or approximate dates, the contract shall also specify

whether or not the contractor and the owner have determined a definite completion date to be of the essence.

(3) A description of the work to be performed, the materials to be provided to the owner, including make, model number of any specific materials or product, or any other identifying information, and the agreed-upon consideration for the work and materials.

(4) A notice to the owner purchasing the home improvement that the contractor or subcontractor who performs on the contract that if the contractor is not paid he/she may have a claim against the owner which may be enforced against the property in accordance with applicable lien laws. Such home improvement contract shall also contain the following notice to the owner in clear and conspicuous bold face type: "Any contractor, subcontractor, or materialman who provides home improvement goods or services pursuant to your home improvement contract and who is not paid may have a valid legal claim against your property known as a mechanic's lien. Any mechanic's lien filed against your property may be discharged. Payment of the agreed-upon price under the home improvement contract prior to filing of a mechanic's lien may invalidate such lien. The owner may contact an attorney to determine his rights to discharge a mechanic's lien."

(5) A notice to the owner purchasing the home improvement that, except as otherwise provided in Subsection A(7) herein, the home improvement contractor is legally required to deposit all payments received prior to completion in accordance with Subdivision 4 of § 71-a of the Lien Law and that, in lieu of such deposit, the home improvement contractor may post a bond, contract of indemnity, or irrevocable letter of credit with the owner guaranteeing the return or proper application of such payments to the purposes of the contract.

(6) If the contract provides for one or more progress payments to be paid to the home improvement contractor by the owner before substantial completion of the work, a schedule of such progress payments showing the amount of each payment, as a sum in dollars and cents, and specifically identifying the state of completion of the work or services to be performed, including any materials to be supplied before each such progress payment is due. The amount of any such progress payments shall bear a reasonable relationship to the amount of work to be performed, materials to be purchased, or expenses for which the contractor would be obligated at the time of the payment.

(7) If the contract provides that the home improvement contractor will be paid on a specified hourly or time basis for work that has been performed or charges for materials that have been supplied prior to the time that payment is due, such payments for such work or materials shall not be deemed to be progress payments for the purposes of Subsection A(6) and shall not be required to be deposited in accordance with the provisions of Subsection A(5).

(8) A notice to the owner that, in addition to any right otherwise to revoke an offer, the owner may cancel the home improvement contract until midnight of the third business day after the day on which the owner has signed an agreement or offer to purchase relating to such contract. Cancellation occurs when written notice of cancellation is given to the home improvement contractor. Notice of cancellation, if given by mail, shall be deemed given when deposited in a mailbox properly addressed and postage prepaid. Notice of cancellation shall be sufficient if it indicates the intention of the owner not to be bound. Notwithstanding the foregoing, this Subsection A(8) shall not apply to a transaction in which the owner has initiated the contract and the home improvement is needed to meet a bona fide emergency of the owner and the owner furnishes the home improvement contractor with a separate dated and signed personal statement in the owner's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the home improvement contract within three business days. For the purposes of this Subsection A(8), the term "owner" shall mean an owner or any representative of an owner.

(9) A notice that all inquiries and complaints or issues about a contractor should be made to the Director, in

writing, with copies transmitted to the Board.

B. The writing shall be legible, in plain English so that it is understood by both parties to the contract, and shall be in such form to describe clearly any other document, which is to be incorporated into the contract. Before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor. The writing may also contain other matters agreed to by the parties to the contract.

§ 135-13. Fees and civil penalties.

A. The Board shall have the power to collect or to cause fees to be collected for the issuance and/or renewal of registrations hereunder. Such fees shall be in accordance with a fee schedule proposed by the Board and duly adopted by the Legislature. All fees collected under the provisions of this chapter are nonrefundable.

B. The Board shall have the power to collect or to cause to be collected civil penalties assessed for violation of this chapter. Such civil penalties shall be in accordance with a schedule proposed by the Board and duly adopted by the Legislature. The penalty for any violation not specifically listed in the civil penalty schedule adopted by the Legislature shall be determined by the Board up to a maximum of $5,000.

§ 135-14. (Reserved)

§ 135-15. Transferability.

A. A registration to conduct a home improvement business issued to an individual may be assigned or transferred for the remainder of the registration period to another business entity if the registrant is an owner or member of such entity owning not less than 25% of the business at the time of such assignment or transfer.

B. Registration of a partnership may be assigned or transferred for the remainder of the registration period to any one member of such partnership, provided that he or she obtains the consent of all of the other members of such partnership.

§ 135-16. Construal; other licenses.

A. Any registration issued pursuant to this chapter shall not be construed to authorize the registrant to perform any particular type of work or kind of business that is reserved to qualified licensees under separate provisions of state or local law.

B. Nothing in this chapter shall be construed to limit or restrict the power of a town or village to regulate the quality, performance, or character of the work of contractors, including a system of permits and inspections that are designed to secure compliance with and aid in the enforcement of applicable state and local building laws or to enforce other laws necessary for the protection of the public health and safety. Nothing in this chapter shall be construed to limit or restrict the power of a town or village to adopt any system or permits requiring submission to and approval by the town or village of plans and specifications for an installation prior to the commencement of construction of the installation of or inspection of work done.

C. This chapter relates only to the area of Putnam County. Notwithstanding, any village or town within Putnam County may preempt this chapter by expressly stating such and enacting its own regulating or licensing of the home improvement business.

§ 135-17. (Reserved)

§ 135-18. Display and advertising.

A. Each and every registration certificate issued pursuant to this chapter shall be posted in a conspicuous location at the registrant's place of business and a copy of the registration certificate shall be placed in each vehicle described in § 135-18F.

B. An identification card issued by federal, state, or local government, which shall contain a photograph of the holder thereof, shall be carried with each contractor or employee and displayed upon request on a job site.

C. The certificate's registration number shall be included on all documents distributed by the registrant.

D. All advertising for a home improvement business shall contain the registration number issued pursuant to this chapter.

E. All vehicles that are owned, leased, or used in the name of a business entity—the owners, principals, and/or employees of which are subject to the provisions of this chapter—must be duly registered with the Office of Consumer Affairs. Therefore, a valid vehicle registration must be provided at the time of registration, renewal, or at any time in which a sticker is requested.

F. A valid registration sticker/decal must be affixed and prominently displayed on the driver's side rear bumper on all vehicles and trailers owned, leased, or used by the registrant in the performance of the occupation so registered.

G. All stickers issued pursuant to this chapter shall remain the property of the Putnam. County Office of Consumer Affairs and must be removed from vehicles prior to a sale of such vehicles to another person.

§ 135-19. Complaints.

A. The Director shall accept from any person complaints relating to a contractor or home improvement business. Such complaints will be kept in the records of the contractor on file with the Office of Consumer Affairs.

B. In considering an application for a license or renewal under this chapter, conducting any investigation, or determining whether to revoke a registration granted under this chapter, the Director may consider any complaints received.

C. The Director shall have the authority to mediate any complaint made by a person against a contractor or home improvement business. Upon receipt of the complaint, the Director shall fully investigate the allegations made against the contractor at his discretion. After completion of the investigation and if the complainant and contractor agree, the Director shall schedule a nonbinding settlement conference at which all parties must appear personally or by legal representative. Neither party will be obligated to participate in any settlement discussion. If the parties are able to resolve the complaint at the settlement conference, the Director shall indicate as such in the records kept on file with the Office of Consumer Affairs.

§ 135-20. Regulation of business.

A. All corporations, partnerships, limited partnerships or joint ventures engaged in home improvement work must file with the Board a registered copy of the applicable business certification as is on file with the state and/or County where such business entity maintains its principal place of business.

B. Any person who is registered pursuant to this chapter shall notify the Board in writing of any change of control in the ownership, location, management name, or business name of a home improvement business within 15 days thereof.

§ 135-21. Compliance Enforcement Officer. [Amended 12-7-2021 by L.L. No. 14-2021]

A. There shall be a Compliance Enforcement Officer(s) who shall report directly to the Director.

B. Powers and duties. The Compliance Enforcement Officer shall have the following powers and duties:

(1) Investigations. Upon receipt of a complaint by any person alleging a violation of this chapter, or on his or her own initiative based on personal knowledge of a suspected violation, the Compliance Enforcement Officer may conduct any independent investigation necessary to carry out the provisions

of this chapter. Pursuant to this power, the Compliance Enforcement Officer may:

(a) Appearance tickets. Issue appearance tickets to alleged violators to compel their appearance before the Board. Such appearance tickets shall be in a form prescribed by the Board.

(b) Subpoenas. Make recommendations to the Board to subpoena the appearance of witnesses to a duly-held hearing and/or to compel the production of any books, records, or documents that he or she may deem material and relevant for the proper prosecution of a violation.

(2) Prosecutions. The Compliance Enforcement Officer shall be charged with the duty of presenting material and relevant evidence of alleged violation(s) of this chapter at a hearing duly convened by the Board in accordance with § 135-22 of this chapter. The Compliance Enforcement Officer shall designate an alternate to make the presentation to the Board in his/her absence. Such designated alternate shall not be a currently serving member of the Board.

§ 135-22. Enforcement.

A. Suspension, revocation, and civil fines. Following a hearing as provided for herein, the Board shall have the power to revoke or suspend, for such period as the Board may deem appropriate, any registration issued under the provisions of this chapter, and/or assess and impose civil fines or penalties as provided for herein, provided that a majority of the Board is satisfied by substantial evidence that the person or the holder of such registration has violated a provision of this chapter or the rules and regulations of the Board.

B. Procedure for suspension, revocation, and/or imposition of civil fines.

(1) Notice of charges. Prior to revocation or suspension of a registration and/or the assessment of any civil penalties as provided for herein, the alleged violator shall receive in writing, a notice of charges that includes an appearance ticket and all of the particulars of the alleged violation. Such notice shall be sent to the alleged violator by the Compliance Enforcement Officer via registered or certified mail in addition to regular first-class mail to the address provided and shall contain the following information:

(a) The name and address of the alleged violator;

(b) The specific section(s) of this chapter alleged to have been violated;

(c) A statement of the facts and circumstances supporting the charge(s) that includes the date and location of the violation;

(d) The date, time, and place where the alleged violator is summoned to appear before the Board for a hearing on the alleged violation;

(e) A statement advising the alleged violator that any answer to the charges must be filed with the Board within 15 days of his or her receipt thereof, as evidenced by evidence of mail delivery recovered from the U.S. Postal Service website or the nonreturn of the first-class mailing;

(f) A statement of the possible penalties to be imposed in the event the charges are proven to the Board by substantial evidence;

(g) A statement advising the alleged violator that, in the event he or she fails to appear as directed, he or she may be considered in default and a hearing may proceed in his or her absence;

(h) A statement advising the alleged violator that he or she could waive his or her right to a hearing and plead guilty to the charges via mail or in person at the Office of Consumer Affairs;

(i) A statement advising the alleged violator that he or she has the right:

[1] To be represented by legal counsel (at his or her own expense); and

[2] To testify, call, and cross-examine witnesses, present evidence in his or her defense at the hearing; and

[3] To request an adjournment for good cause. See "adjournments" below.

(2) Hearing.

(a) Timing. The hearing on any alleged violation of this chapter shall be held before the Board within 100 days of the date of the written notice provided for in Subsection B(1).

(b) Adjournments. Any requests for an adjournment must be made in writing and may be granted at the sole discretion of the Board. Any granted adjournment shall nullify the 100-day period of § 135-22B(2)(a).

(c) Record. A stenographic or audio recording of the hearing shall be made by the Board.

(d) Rules of evidence. Compliance with the technical rules of evidence shall not be required, but all evidence presented must be material and relevant as determined by the presiding officer.

(e) Presiding officer. The hearing shall be conducted by the Board and shall be presided over by the Chairperson of the Board or, in his or her absence, the Vice Chairperson or another Board member designated by the Chairperson or Vice Chairperson.

(f) Presentation of evidence in support of the charges. Evidence of the alleged violation shall be presented to the Board by the issuing Compliance Enforcement Officer, or his/her designee, who shall be subject to questioning/cross-examination by the alleged violator or his or her legal representative.

(g) Burden of proof. The charges contained in the notice shall be proven by substantial evidence.

(h) Findings of fact and decision. Within 30 days from the submission of all evidence and the close of the hearing, the Board shall issue a written decision on the charges, setting forth therein:

[1] Its findings of fact as determined by the evidence presented at the hearing;

[2] Its decision regarding the alleged violator's guilt or innocence of the charges set forth in the notice of charges;

[3] A statement of the reasons supporting its decision;

[4] The penalty, if any, to be imposed, including any relevant effective date(s) or period(s) of duration as determined by the Board; and

[5] A statement regarding the right to challenge the Board's decision pursuant to Article 78 of the New York Civil Practice Law and Rules.

(i) Notice of decision. The Board shall immediately cause a written copy of its findings of fact and decision to be delivered to the alleged violator via registered or certified mail and first-class mail.

(j) Judicial review. The decision of the Board shall be subject to judicial review in accordance with Article 78 of the New York Civil Practice Law and Rules.

C. Permissible penalties. The Board, following a determination that the charges have been proven by substantial evidence, may impose the following penalties:

(1) Issuance of an official reprimand and warning letter, a copy of which shall be retained by the Board and considered in connection with future applications for registration or renewal thereof.

(2) Imposition of a civil penalty in an amount authorized by resolution of the Putnam County Legislature, but not to exceed $5,000 for each violation of this chapter.

(3) Revocation/suspension.

(a) The Board, in its judgment as to the seriousness of the charges, may suspend or revoke the home improvement registration of any home improvement registration holder who, at a duly called hearing, has been found guilty by substantial evidence of a violation of this chapter.

(b) The Board may suspend or revoke a registration if the registration holder has been convicted of a crime by a court of competent jurisdiction where there is a direct relationship between the crime and the specific registration sought, or if the issuance and/or holding of the registration would involve an unreasonable risk to property or to the safety or welfare of specific individuals or to the general public.

(c) A suspension is a temporary restriction of a person's home improvement registration. During the period of suspension, the registrant may not engage in home improvement work in Putnam County. The duration of suspension will be determined by the Board and can be for a fixed period of time or an indefinite period of time contingent upon the occurrence of a condition precedent. A registrant must renew or waive renewal of his or her registration as prescribed in this chapter even if suspended. A suspension will continue after expiration of the term of registration regardless of whether the registrant has renewed. Once the suspension period has ended, the registrant must pay a fee to lift the suspension before his or her registration will be reinstated.

(d) A revocation is a termination of a person's home improvement registration. Once revoked, the registrant may not engage in home improvement work in Putnam County. The duration of the revocation will be determined by the Board and can be for a minimum period of time or an indefinite period of time contingent upon the occurrence of a condition precedent. Once revoked, a registrant may not renew his or her registration. Upon expiration of the minimum period of revocation, the registrant must pay a fee to lift the revocation before he or she may submit a new application for consideration.

D. Litigation costs. In the event the County is required to institute legal proceedings to collect any portion of a fine or penalty imposed under this chapter, the County shall be entitled to recover from the violator any and all associated costs thereof, including attorney's fees and interest on any unpaid fine or penalty calculated at the statutory rate.

§ 135-23. Criminal penalties.

A. Any person who shall maintain, conduct, operate, or engage in a home improvement business within the County of Putnam without a registration as required under this chapter or who continues to conduct a home improvement business after such registration has been denied, suspended, revoked, or has expired shall be guilty of a Class A misdemeanor.

B. The Board may refer any matter that it suspects may constitute a criminal offense to the Putnam County Sheriff's Office or to other appropriate law enforcement authority for further review.

C. This section shall be enforced by the Putnam County Sheriff's Department. Arrests made pursuant to this section shall be made by a police officer or a peace officer acting under his or her special duties.

§ 135-24. Immunity.

Nothing set forth in this chapter shall subject the County of Putnam, its officers, agents, or employees, including the Board and the Compliance Enforcement Officer, to any liability for damages arising out of or related to the conduct of any person licensed or registered by the County of Putnam.

§ 135-25. Insurance and bonding. [Amended 12-7-2021 by L.L. No. 14-2021]

A. Except for a business engaged in lawn mowing/ground maintenance/leaf blowing, prior to the issuance of any registration, permit, or renewal thereof and prior to performing any home improvement work in Putnam County a person must obtain insurance and bonding as follows:

(1) A license and permit bond in the amount of $25,000;

(2) Workers' compensation insurance for all employees;

(3) General liability insurance of at least $1,000,000 per occurrence and $2,000,000 in the aggregate and the description of operations in the certificate of liability insurance shall contain the scope of work performed.

B. A person must provide the Board with proof of insurance and bonding information before any registration, permit, or renewal thereof will be granted.

C. Any home improvement work performed in Putnam County must fall within the scope of coverage of the insurance and bond policies required under Subsection A above.

D. All insurance policies shall contain a provision of continued liability and name Putnam County as an additional insured and certificate holder.

E. All bonds shall contain a provision identifying Putnam County as an obligee. Notwithstanding the foregoing, any payment issued on behalf of a claim for an aggrieved individual or company shall be paid directly to said individual or company by the bond company.

F. All insurance policies and bonds must be carried throughout the entire period of registration and for the duration of any home improvement work performed.

§ 135-26. Provisions not subject to waiver.

The provisions of this chapter are intended for the protection of an owner and shall not be subject to waiver by an owner in a home improvement contract otherwise.

§ 135-27. Severability.

If any part or provision of this chapter or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances. The County of Putnam hereby declares that it would have passed this chapter or the remainder thereof had such invalid application or invalid provision been apparent.

§ 135-28. Repealer.

All ordinances, local laws, and parts thereof inconsistent with this chapter are hereby repealed; provided, however, that such repeal shall not affect or impair any act done or right accruing, accrued, or acquired, or penalty, charge, liability, forfeiture, or punishment incurred or owing prior to the time such repeal takes effect, but the same may be enjoyed, asserted, collected, enforced, prosecuted, or inflicted as fully and to the same extent as if such repeal had not been effected. All actions and proceedings, civil or criminal, commenced under or by virtue of any provision of any County of Putnam local law, ordinance or resolution so repealed, and pending immediately prior to the taking effect of such repeal, may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.