

Rockland County, NY
Thursday, April 16, 2026

Chapter 286. Home Improvement Contractors

[HISTORY: Adopted by the Rockland County Legislature 6-26-1984 by L.L. No. 8-1984; amended in its entirety 2-1-2005 by L.L. No. 5-2005. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Apprenticeship training programs — See Ch. **213**.
Carbon monoxide detectors — See Ch. **223**.
Electricians — See Ch. **250**.
Licensing of home inspectors — See Ch. 287.
Plumbers; heating and cooling contractors — See Ch. **319**.

ATTACHMENTS

Attachment 1 - Rules and Regulations 

§ 286-1. Purpose; limitation.

- A. It is the purpose of the Legislature of Rockland County in enacting this chapter to safeguard and protect employees, the homeowners and the consumer against abuses on the part of swimming pool contractors and itinerant home improvement contractors by regulating the home improvement, remodeling and swimming pool repair business, by licensing of persons engaged in such business and by mandating that contractors are responsible for their employees. The Legislature finds that a need exists for a more complete understanding between customers and contractors engaged in swimming pool construction and home improvement business regarding the content and conditions of transactions for swimming pool construction and home improvement. The Legislature also finds that many misunderstandings have arisen because of the lack of a standard body of requirements relating to such transactions and that certain sales and business practices and construction practices have worked financial and safety hardship upon the people of Rockland County.
[Amended 5-3-2016 by L.L. No. 1-2016]
- B. Nothing in this chapter shall limit the power of a City, Town or Village to adopt any system of permits requiring submission to and approval by the City, Town or Village of plans and specifications for an installation prior to the commencement of construction of the installation or of inspection of work done.

§ 286-2. Definitions; word usage.

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

APPLICANT

The qualifying individual applying for the license.

BOARD

The Home Improvement Licensing Board.

CONTRACTOR

Any person, other than a bona fide employee of the owner, who owns or operates a home improvement business or who undertakes or offers to undertake or agrees to perform any home improvement, whether or not such person is licensed or subject to the licensing requirements of this chapter and whether or not such person is a prime contractor or subcontractor with respect to the owner.

DIRECTOR

The Director of Consumer Protection.
[Amended 8-5-2020 by L.L. No. 4-2020]

HOME IMPROVEMENT

- (1) The repair, replacement, remodeling, alteration, conversion, modernization, demolition or removal of, or improvement or addition to any land or building, or that portion thereof which is used or designed to be used as a private residence, dwelling place for not more than six families, a condominium dwelling unit or a cooperative dwelling unit, and shall include, but not be limited to, the installation, construction, replacement or improvement of driveways, swimming pools, roofs, porches, garages, fallout shelters, central vacuum-cleaning systems, storm windows, awnings, installed floor coverings, landscaping, interior and exterior painting, wallpaper and wall covering installations and other improvements to structures or upon land which is adjacent to a dwelling house.
[Amended 7-3-2007 by L.L. No. 9-2007; 5-3-2016 by L.L. No. 1-2016]
- (2) Shall not include the construction of a new home, building or work done by a contractor in compliance with a guaranty of completion of a new building project or 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 or residences owned by or controlled by the state or any municipal subdivision thereof.

HOME IMPROVEMENT CONTRACT

An agreement between a contractor and an owner or between a contractor and a tenant for the performance of a home improvement, and includes all labor, services and materials to be furnished and performed thereunder.

HOME IMPROVEMENT ESTABLISHMENT

Any shop, establishment, place or premises where the home improvement business is carried on.

LICENSEE

A person permitted to engage in the home improvement business under the provisions of this chapter.

OWNER

Any homeowner, 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.

PERSON

An individual, firm, partnership, association or corporation.

SHELVE

The voluntary placement in inactive status by an applicant of a license issued pursuant to this chapter. No applicant whose license is shelved shall maintain, conduct, operate, advertise, engage in or transact a home improvement business or activity or solicit home improvement contracts for which a license is required by this chapter.

[Added 5-3-2016 by L.L. No. 1-2016]

- B. All references to the masculine gender shall be interpreted to mean to include the feminine gender.

§ 286-3. License required.

No person shall own, maintain, conduct, operate, engage in or transact a home improvement business after the effective date of this chapter or any amendment thereto or solicit home improvement contracts or hold himself out as being able to do so after such date unless he is licensed therefor pursuant to this chapter.

§ 286-4. Home Improvement Licensing Board.

- A. There is hereby created a home improvement licensing board consisting of 11 members, hereinafter referred to as the "Board." The members of such Board shall be residents of Rockland County, or shall have their principal place of business in Rockland County, and shall be appointed by the Rockland County Executive, subject to confirmation by the County Legislature, and shall serve at the pleasure of the County Executive as follows:

[Amended 7-3-2007 by L.L. No. 9-2007]

- (1) Three primarily engaged in business as home improvement contractors.
- (2) One primarily engaged in business as an architect.
- (3) One primarily engaged in business as a licensed engineer.
- (4) Three citizens independent of the home improvement business.
- (5) The Director of Consumer Protection and Public Advocate or his/her designee.
[Amended 8-5-2020 by L.L. No. 4-2020]
- (6) One primarily engaged in business as a pool contractor.
- (7) One primarily engaged in business as a tradesman.

- B. The Rockland County Director of Consumer Protection and Public Advocate or his designee shall act as Chairman thereof. The Board shall elect a Vice Chairman from its own members. In addition, until appointment of a majority of the Board, the Director shall exercise and be vested with all powers and duties of the Board.

[Amended 7-3-2007 by L.L. No. 9-2007; 8-5-2020 by L.L. No. 4-2020]

- C. A majority of the Board shall constitute a quorum for the transaction of business.
- D. Compensation to be paid to the members of the Board, if any, shall be determined by the Rockland County Legislature of the County of Rockland.

§ 286-5. Powers and duties of Board.

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

- A. To hold meetings at the call of the Chairman and at such other times as the Board may determine, when necessary or desirable for the efficient discharge of the business of the Board, but not less than quarterly. All meetings of such Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof and every decision or determination of the Board shall immediately be filed in the office of the Director and shall be a public record.
[Amended 8-5-2020 by L.L. No. 4-2020]
- B. To establish categories of licenses under this chapter.
- C. To examine the qualifications and fitness of applicants for licenses under this chapter or of the representatives of such applicants designated for such purpose.
- D. To grant and issue licenses to applicants possessing or whose representatives possess the requisite qualifications for each category of license established by the Board.
- E. To suspend or revoke licenses for cause as prescribed in this chapter.
- F. To keep records of all licenses issued, suspended or revoked by it and to make such records available for public inspections, the same to be filed in the office of the Director.
[Amended 8-5-2020 by L.L. No. 4-2020]
- G. To establish qualifications for, and to grant and renew, temporary licenses not to exceed 120 days for each such grant or renewal, for each category of license established by the Board and to establish such pro-rata fee schedule as it deems advisable.
[Amended 7-3-2007 by L.L. No. 9-2007]
- H. To prepare a manual of its rules and regulations for the conduct of examinations and qualifications and to furnish copies thereof to persons desiring the same upon payment of a fee as set by the licensing Board.
- I. To adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under this chapter or any other law after a public hearing by the Board and subject to the approval of the Rockland County Legislature. Upon adoption and approval of such rules and regulations, they shall be duly filed with the Clerk of the Rockland County Legislature and Director.
[Amended 8-5-2020 by L.L. No. 4-2020]
- J. The Board shall employ experts, clerks and a secretary subject to the appropriations that may be made therefor by the Rockland County Legislature. Said employees shall report to the Director on a day-to-day operational basis. The Rockland County Legislature is hereby authorized and empowered to make such appropriation as it may see fit for such expenses; the amount of the appropriation shall be the estimated charges and expenses less fees, if any, collected pursuant to the license required by this chapter.
[Amended 8-5-2020 by L.L. No. 4-2020]

§ 286-6. Examinations; exception; bond and insurance.

- A. Examinations shall be in writing or in other forms as the Board may determine. A complete record of every examination given shall be kept on file until three years after the date of the examination. Examinations shall be held at such times and places as the Board may fix.
- B. The applicant shall present himself for examination at the time and place specified in a notice to be given by the Board.
[Amended 7-3-2007 by L.L. No. 9-2007]
- C. An applicant who has failed in this first examination shall not be eligible for reexamination until one month from the date of such failure. One who fails twice or more shall not be eligible for further reexamination until at least one month from the date of such second or subsequent failure.
[Amended 5-3-2016 by L.L. No. 1-2016]
- D. No license shall be granted to a person unless he shall prove to the satisfaction of the Board that he is competent and qualified to perform work. The Board may, as a condition to the granting of a license, establish a rule or regulation requiring that the applicant must have a certain number of years of experience performing work before the date of application.
- E. Any person applying for a license within one year after the effective date of this chapter who shall hold a current valid license or who shall have been continuously engaged in the business and work of home improvement in the County of Rockland for a period of five years or more preceding such effective date shall be entitled to receive a license without examination upon payment of the fee prescribed by this chapter.
- F. The Board may require an application for a license or a renewal application to be accompanied by a bond, approved as to form by the County Attorney, executed by a bonding or surety company authorized to do business in the State of New York, or cash security in an amount to be set by the Board, conditioned upon the assurance that during the term of such license the licensee will continue to comply with the provisions of this chapter, to assure that upon default in the performance of any contract, the advance payments made thereon, less the reasonable value of services actually rendered to the date of such default, or the reasonable costs of completion of the contract in the event of noncompletion thereof, will be refunded to the purchaser, owner or lessee with whom such contract was made. Such bond shall run to the County of Rockland for the use and benefit of any person or persons intended to be protected thereby. The filing of the required bond in the office of the Director, preapproved as to form by the County Attorney, shall be deemed sufficient compliance with this section. The Board may require a bond at any time during the term of the license based on the licensee's performance during such term.
[Amended 7-3-2007 by L.L. No. 9-2007; 8-5-2020 by L.L. No. 4-2020]
- G. All persons licensed pursuant to this chapter shall be required to secure liability insurance to protect all persons from personal injury and property damage that could occur, directly or indirectly, during or as a result of their work licensed by this chapter. Such liability insurance must include proof of personal liability and property damage coverage (with no exclusions for product-completed operations coverage) in such form and amount, and with such other kinds of coverage, as may from time to time be set forth in or required by the rules and regulations, along with proof of workers' compensation and disability insurance in such form and amount as may from time to time be set forth in or required by the rules and regulations. Such liability insurance shall be occurrence-based.
[Amended 7-3-2007 by L.L. No. 9-2007]
- H. License suspension.

[Added 7-3-2007 by L.L. No. 9-2007]

- (1) The Director or his designee, upon receipt of evidence that any bond required of any licensee by § **286-6F** or any liability, disability, or workers' compensation insurance required of any licensee by § **286-6G** or the rules and regulations is not in effect, shall promptly issue an order suspending the license of such licensee and shall promptly mail a copy of such order by regular first class mail and by certified mail to the licensee at the licensee's address provided in accordance with this law or the rules and regulations.
[Amended 8-5-2020 by L.L. No. 4-2020]
- (2) The suspension shall take effect on the date specified in the order and shall remain in effect for a period of time equal to the time from the date that the bond or insurance, as the case may be, was not in effect to the date on which a subsequent insurance, as the case may be, became or will have become in effect.
- (3) No order suspending any license shall be issued, or, if such order has been issued, it shall be terminated, if the Director or his designee shall determine either that the bond or insurance, as the case may be, had been erroneously determined not to have been continuously in effect or that both (a) the licensee was not aware of the fact that the bond or insurance, as the case may be, was not in effect and (b) the failure to have such bond or insurance in effect was caused solely by the negligence or malfeasance of a person other than such licensee. The burden of proving that the bond or insurance had been erroneously determined not to have been continuously in effect, or that the licensee did not know that the bond or insurance was not in effect and that such failure to have the bond or insurance in effect resulted solely from the negligence or malfeasance of another, shall be upon the licensee seeking to avoid suspension action. Such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the Commissioner. The Director may, as justice may require, terminate or modify any order suspending any license.
[Amended 8-5-2020 by L.L. No. 4-2020]
- (4) No order issued, and no action taken or not taken, by the Director or his designee pursuant to this Subsection **H** shall be subject to appeal to the Board or to the appeal procedures specified in § **286-19** but, rather, shall be deemed an administratively final determination for purposes of judicial review.
[Amended 8-5-2020 by L.L. No. 4-2020]
- (5) Nothing in this subsection shall prohibit the Board from further suspending or revoking such license pursuant to § **286-9** of this chapter or prohibit the Director or the others specified in § **286-21** from proceeding further to enforce this chapter as provided in § **286-21**.
[Amended 8-5-2020 by L.L. No. 4-2020]

§ 286-7. License; display; renewals; duplicates.

- A. All licenses, except temporary licenses, shall be for a period of one year from the date of application and shall expire on the last day of the 12th month following the application filing date, as set forth in the rules and regulations.
[Amended 7-3-2007 by L.L. No. 9-2007; 5-3-2016 by L.L. No. 1-2016]
- B. No license shall be assignable or transferable except as hereinafter provided.
[Amended 5-3-2016 by L.L. No. 1-2016]

- (1) A license to conduct a home improvement business issued to an individual may be assigned or transferred for the remainder of the license period to a partnership, corporation or other entity if such individual is a member, manager, officer or general partner of such partnership or a corporation.
 - (2) A license to conduct a home improvement business issued to a partnership may be assigned or transferred for the remainder of the license period to any one general partner of such partnership, provided that he or she obtains the consent of all of the other members of such partnership.
 - (3) A license to conduct a home improvement business issued to a qualifying applicant of a corporation may be assigned or transferred for the remainder of the license period to another qualifying applicant of the same corporation, provided the corporation provides sufficient proof of consent to transfer from the corporation's President, Chief Executive Officer, Chairperson, sole proprietor (if an "S" corporation), owner (if a limited-liability corporation) or other authorized representative of the corporate entity.
 - (4) The application for such transfer or assignment must be accompanied by evidence satisfactory to the Director and the Board that the requirements herein provided have been satisfied and that the proposed applicant meets the necessary qualifications for licensure.
 - (5) No assignment or transfer shall become effective unless and until the proper endorsement evidencing said transfer or assignment has been made on the face of the license by the Director and such license, so endorsed, has been returned to the assignee or transferee. All such endorsements shall be made upon payment of a fee as set forth in accordance with the applicable rules and regulations.
- C. Each license issued pursuant to this chapter shall be posted and kept posted in some conspicuous place in the home improvement establishment.
[Amended 7-3-2007 by L.L. No. 9-2007; 5-3-2016 by L.L. No. 1-2016]
- D. Any license, except a temporary license, which has not been suspended or revoked may, upon the payment of the renewal fee be renewed for an additional period of one year from its expiration, as set forth in the rules and regulations, upon filing of an application for such renewal on a form to be prescribed by the Board. Failure to make application for such renewal within 15 days prior to the expiration date of the license shall subject the licensee to a penalty as set forth in the rules and regulations, which shall be paid, together with the renewal fee, prior to the issuance of the renewal. After the expiration date of the license, the licensee shall be considered no longer licensed as required by § **286-3** and for purposes of the penalties established by § **286-21**. A licensee whose license has expired shall be required to apply for an entirely new license in accordance with this chapter unless, within 90 days after the expiration date of the license, such licensee makes application for renewal and pays a penalty as set forth in the rules and regulations, together with the renewal fee. A licensee who is able to demonstrate proof of active duty in the armed forces during the period when the license was eligible for renewal will be exempt from the requirement to make application for renewal within 90 days after the expiration date of the license. A licensee who is able to demonstrate good cause for any other reason may be eligible for renewal at the Director's discretion and may be subject to Board review.
[Amended 7-3-2007 by L.L. No. 9-2007; 5-3-2016 by L.L. No. 1-2016]
- E. A duplicate license may be issued for one lost, destroyed or mutilated, upon application therefor on a form prescribed therefor by this chapter. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

- F. A supplementary license may be issued for each additional place of business maintained by a licensee within the County of Rockland upon application therefor on a form prescribed by the Board and the payment of the fee prescribed therefor by this chapter. Each such supplementary license shall have the word "supplementary" stamped across the face thereof and shall bear the same number as the original.

§ 286-8. Fees.

[Amended 5-3-2016 by L.L. No. 1-2016]

Application for a license, renewal of a license, application to shelve a license, renewal of a shelved license, supplementary, duplicate or transfer license shall be accompanied by the required fee set forth in the rules and regulations.

§ 286-9. Refusal, suspension or revocation of license.

[Amended 7-3-2007 by L.L. No. 9-2007; 5-3-2016 by L.L. No. 1-2016]

A license required to conduct, operate, engage in and transact a home improvement business as a home improvement contractor or a shelved license may be refused, suspended or revoked by the Board for any one or more of the following causes:

- A. Fraud, misrepresentation or bribery in securing a license.
- B. The making of any false statement as to a material matter in any application for a license, or in any proceeding with respect to the refusal, suspension, or revocation of a license, or in any response to any order, demand, or inquiry by the Board or by the Director or his designee with respect to a license or with respect to any home improvement contract.
[Amended 8-5-2020 by L.L. No. 4-2020]
- C. The person or the management personnel of the contractor are untrustworthy or not of good character.
- D. The business transactions of the contractor have been marked by a practice of failure to perform its contracts or the manipulation of assets or accounts or by fraud or bad faith.
- E. Failure to display the license as provided in this chapter.
- F. Violation of any provision of this chapter or of any rule or regulation adopted hereunder.
- G. The institution of federal bankruptcy proceedings (voluntary or involuntary), or of proceedings in any court to appoint a receiver, with respect to the person or any management personnel of the contractor; or the making of an assignment by the person or any management personnel of the contractor for the benefit of creditors whose claims arise under or are related to any home improvement contract with the person or management personnel of the contractor; or failure to notify the Board of the institution of such proceedings or the making of such assignment.
- H. Engaging, with only a shelved license, in any activity for which a license is required under this chapter.

§ 286-10. Prohibited acts.

A. The following acts are prohibited:

- (1) Abandonment or willful failure to perform, without justification, any home improvement contract or project engaged in or undertaken by a contractor or willful deviation from or disregard of plans or specifications in any material respect without the consent of the owner.
- (2) Making any substantial misrepresentation in a home improvement contract or in the procurement of a home improvement contract or making any false promise likely to influence, persuade or induce.
[Amended 7-3-2007 by L.L. No. 9-2007]
- (3) 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.
- (4) Preparing or accepting any mortgage, promissory note or other evidence of indebtedness upon the obligations of a home improvement transaction with knowledge that it recites a greater monetary obligation than the agreed consideration for the home improvement work.
- (5) 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, provided that any advertisement which is subject to and complies with the then existing rules, regulations or guides of the Federal Trade Commission shall not be deemed false, deceptive or misleading; or any means of advertising or purporting to offer the general public any home improvement work with the intent not to accept contracts for the particular work or the price which is advertised or offered to the public.
- (6) Willful or deliberate disregard and violation of the building, sanitary and health laws of this state or any political or municipal subdivision thereof.
- (7) Willful failure to notify the Board of any change or control in ownership, management, business name, location or person whose qualifications were the subject of review and approval by the Board as designee of a contractor.
- (8) Conducting a home improvement business in any name other than the one in which the contractor is licensed.
- (9) Willful failure to comply with any order, demand or requirement made by the Board pursuant to provisions of this chapter, or the willful making of any false statement as to a material matter in any proceeding with respect to the refusal, suspension, or revocation of a license, or in any response to any order, demand, or inquiry by the Board or by the Director or his designee with respect to a license or with respect to any home improvement contract.
[Amended 7-3-2007 by L.L. No. 9-2007; 8-5-2020 by L.L. No. 4-2020]
- (10) Willful or other refusal, failure, or neglect to pay or comply with any judgment in favor of any owner, supplier, vendor, materialman, subcontractor, independent contractor, employee, or other person arising out of any home improvement contract or home improvement activity entered in any court of competent jurisdiction, within 60 days after the entry of such judgment, or within 60 days after the disposition of any appeal from it, or within 60 days after the expiration of any period during which an appeal or further appeal may be taken from it, whichever is later.
[Added 7-3-2007 by L.L. No. 9-2007]
- (11) Willful refusal or failure to make any payment, when due, to any supplier, vendor, materialman, subcontractor, independent contractor, employee, or

other person for any labor or materials in connection with any home improvement contract, or any willful act or omission that may expose any owner to the imposition of any lien or to any civil or other liability or penalty.
[Added 7-3-2007 by L.L. No. 9-2007]

- B. As part of or in connection with the inducement to make a home improvement contract, no person shall promise or offer to pay credit charges or allow to a buyer any compensation or reward for the procurement of a home improvement contract with others.
- C. No contractor shall offer or pay a loan as an inducement to enter into a home improvement.
- D. No acts, agreements or statements of a buyer under a home improvement contract shall constitute a waiver of any provisions of this chapter intended for the benefit or protection of the buyer.
- E. No person shall advertise or hold himself or herself out as being qualified to perform home improvements, as defined in this chapter, in Rockland County unless licensed as herein provided, and the license number shall appear in all such advertising.
- F. No contractor shall employ an unlicensed subcontractor or subcontractors.

§ 286-11. Exceptions.

- A. No contractor's license shall be required of any person when acting in the particular capacity or particular type of transaction set forth in this section:
 - (1) An individual who performs labor or services for a contractor for wages or salary.
 - (2) A plumber, electrician, architect, professional engineer or any other such person who is required by state or local law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession and who is acting exclusively within the scope of the craft or profession for which he is currently licensed pursuant to such other law.
 - (3) Any retail Clerk, clerical, administrative or other employee of a licensed contractor as to a transaction on the premises of the contractor.
- B. This chapter shall not apply to a home improvement contract otherwise within the purview of this chapter which is made prior to the effective date of the respective provisions of this chapter governing such contracts.

§ 286-12. Contract requirements.

Every home improvement contract where the total aggregate cost exceeds \$250 shall be subject to the provisions of this section. Every contract and any changes in the contract subject to the provisions of this section shall be in writing, shall be signed by all parties to the contract, and the writing shall contain the following:

- A. The name, address, license number and federal employer identification number, if any, of the contractor.

- B. The approximate dates when the work will begin and on which all construction is to be completed.
- C. A description of all work to be done, the materials or material allowances and equipment to be used, the agreed consideration for the work and whether any other work is required to be performed to comply with any other law, ordinance, local law, resolution or building code governing home improvement work or requiring permits therefor or any requirement contained in the rules and regulations of the Board and any revisions thereof.
- D. If the payment schedule contained in the contract provides for a down payment to be paid to the contractor by the owner before the commencement of work, such down payment shall not exceed \$1,000 or 15% of the contract price, excluding finance charges, whichever is the lesser. However, this Subsection **D** shall not be construed to prohibit any contractor from demanding or receiving from any owner at any time during the performance of any contract advance payment for any materials that are necessary for the owner's specific project, provided: (1) that the contractor has become or may become, for any reason, irrevocably committed to purchase such materials from any supplier, vendor, materialman, or other person; or (2) that the contractor has become or may become, for any reason, contractually liable to pay any supplier, vendor, materialman, or other person for such materials; or (3) such materials have become irreversibly customized for the owner's specific project and may not feasibly, without undue hardship to the contractor, be salvageable by the contractor from the owner's specific project; and provided, further, that the contract shall contain in bold twelve-point or larger print, immediately above the signature of the owner, the following language, which shall be separately initialed by the owner: "At any time during the performance of this contract, the contractor may demand and shall be entitled to receive in full from the owner advance payment for any materials that are necessary to perform this contract."
[Amended 7-3-2007 by L.L. No. 9-2007]
- E. A schedule of payments showing the amount of each payment as a sum in dollars and cents. In no event shall the payment schedule provide for the contractor to receive, nor shall the contractor actually receive, payments in excess of 100% of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial down payment and any advance payments authorized by Subsection **D**. The schedule of payments shall be stated in dollars and cents and shall be specifically referenced to the amount of work to be performed and to any materials and equipment to be supplied.
[Amended 7-3-2007 by L.L. No. 9-2007]
- F. The contract shall state that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the work a full and unconditional release from any claim of a mechanic's lien by the contractor or by a person entitled to enforce a mechanic's lien for that portion of the work for which payment has been made.
- G. The requirements of Subsections **D**, **E** and **F** shall not apply when the contract provides for the contractor to furnish a performance and payment bond, lien and completion bond, or a bond equivalent approved by the Board, covering full performance and completion of the contract and such bonds are furnished by the contractor or when the parties agree for full payment to be made upon or for a schedule of payments to commence after satisfactory completion of the project. The contract shall contain, in close proximity to the signature of the owner, a notice in at least ten-point type stating that such owner has the right to require the contractor to have a performance and payment bond.

- H. No additional work shall be performed without prior written authorization of the person contracting for the construction of the home improvement. Any such authorization shall be on a contract change-order form, showing the agreed terms and reasons for such changes and shall be approved by both parties in writing. Any such change-order forms shall be incorporated in, and become part of, the contract.
- I. The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.
- J. The contract shall contain not less than a one-year warranty guaranteeing the quality of workmanship.
- K. The contract shall require the contractor to obtain any necessary permits and provide to the owner a certificate of occupancy, if required by the home improvement, unless specifically provided otherwise in the contract. Should the contract indicate that the homeowner is to obtain any necessary permits and certificate of occupancy, the same shall be set forth in not less than ten-point bold lettering.
- L. The writing may also contain other matters agreed to by the parties to the contract.
- M. At the time a contract is signed by the parties, the contractor shall deliver a legible copy of such contract to the person contracting for the construction.
- N. Each home improvement contractor shall maintain books of account, copies of all contracts with buyers and such other records as shall properly and completely reflect all transactions involving the home improvement business. These records shall be maintained for six years or the length of time of the contract guaranty, whichever is longer.
- O. A notice to the owner that, in addition to any right to otherwise 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 shall not apply to a transaction in which the owner has initiated the contact 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, the term "owner" shall mean an owner or any representative of an owner.

§ 286-13. Contract funds.

A home improvement contractor must treat all funds received from a customer pursuant to a home improvement contract as trust funds to be applied solely to the payment of expenses directly related to the home improvement. Such funds may not be applied to the payment of expenses unrelated to the home improvement unless and until the home improvement is completed and all the expenses for direct labor, material and subcontractors related thereto have been paid by the contractor.

§ 286-14. Disposition of fees.

All fees derived by the Board from the operation of this chapter shall be turned over to the Commissioner of Finance by the Board within 10 days after they are received.

§ 286-15. Liability for damage.

This chapter shall not be construed to relieve from nor lessen the responsibility of any home improvement contractor for any loss of life or damage to person or property, nor shall the County of Rockland be deemed to have assumed any such liability by reason of any license issued pursuant to this chapter.

§ 286-16. Other licenses; powers of municipalities.

- A. A license issued pursuant to this chapter may not be construed to authorize the licensee to perform any particular type of work or kind of business which is reserved to qualified licensees under separate provisions of state or local law, nor shall any license or authority other than as is issued or permitted pursuant to this chapter authorize engaging in the home improvement business.
- 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 which 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 limits the power of a Town or Village to adopt any system of 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 or of inspection of work done.

§ 286-17. Nonapplicability.

The provisions of this chapter shall not apply to work performed by or pursuant to a contract with any federal, state or municipal government or corporation or any agencies thereof.

§ 286-18. Suspension or revocation of licenses.

- A. Any license issued hereunder may be suspended or revoked, at the discretion of the Board, after public hearing, upon due notice held, upon charges given to the licensee and an opportunity to be heard in his defense, in person or by an attorney, if the Board is satisfied that the holder of such license or any of his or its officers or employees willfully, or by reason of incompetence, have violated any provision of this chapter, any other law, ordinance, local law, resolution or building code governing home improvement work or requiring permits therefor or any requirement contained in the rules and regulations of the Board and any revisions thereof. The Board shall cause the proceedings of such hearing to be electronically or otherwise recorded verbatim and permanently preserved.
[Amended 7-3-2007 by L.L. No. 9-2007]

- B. Any revocation under Subsection **A** of this section shall be for not less than one year unless otherwise specified by the appeals board pursuant to § **286-19** of this chapter.

§ 286-19. Appeals.

[Amended 7-3-2007 by L.L. No. 9-2007]

- A. Any person aggrieved by the action of the Board in refusing to issue a license or renewal thereof or in refusing to permit the shelving of a license or renewal of a shelved licensed or reactivation of a shelved license or suspending or revoking a license or making any decision or determination may take an appeal therefrom to the Rockland County Legislature within 30 days after the same has been filed with the Clerk of the Rockland County Legislature as required herein. Such appeal shall be taken by filing with the Board and the Rockland County Legislature a notice of appeal, specifying the grounds therefor.
[Amended 5-3-2016 by L.L. No. 1-2016]
- B. The Board shall forthwith transmit to the Clerk of the Rockland County Legislature and shall by personal delivery or by first class mail serve upon the appellant a copy of the recorded proceedings and a copy of all the papers constituting the record upon which the action appealed from was taken.
- C. An appeal, except from an action of the Board in refusing to issue a license or renewal thereof, stays all proceedings in furtherance of the action appealed from, unless the Board certifies to the Rockland County Legislature, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Rockland County Legislature.
- D. The County Executive, subject to confirmation by the County Legislature, may designate three members of the Legislature as an appellate panel to hear the appeal.
- E. A time shall be fixed for the hearing of the appeal, and notices of the hearing shall be mailed to the appellant and the Board at least 20 days before the hearing. Upon the hearing, any party may appear in person or by agent or by attorney. The appellate panel may reverse or affirm, wholly or partly, or may modify the decision or determination or action appealed from and shall make such decision or determination as, in its opinion, ought to be made in the premises and to that end shall have the powers of the Board from which the appeal is taken.
- F. Any person or persons aggrieved by any decision made upon an appeal may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules, provided that the proceeding is commenced within 30 days after filing the decision in the office of the Clerk to the Legislature.
- G. Said appeals shall be a hearing de novo at which the proceedings of and the evidence presented at the hearing before the Board shall be considered, together with such other evidence offered by the appellant or the Board that the three members of the Legislature hearing the appeal deem relevant to the issues decided by the Board.
- H. All exhibits proposed by the appellant or the Board to be submitted as evidence at the hearing of the appeal shall be filed with the Clerk to the Legislature and by personal delivery or by first class mail served upon the other party at least seven days prior to said hearing.

§ 286-20. Construal of provisions.

Nothing contained herein shall be construed to obviate the necessity of procuring a permit for work whenever required by statute, local law, resolution, building code or ordinance of the municipality wherein such work is to be performed.

§ 286-21. Penalties for offenses.

[Amended 7-3-2007 by L.L. No. 9-2007]

- A. Any willful or negligent failure by any person to comply with the provisions of § **286-3** hereof shall constitute a class A misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment. The continuation of any offense shall constitute a separate and distinct misdemeanor hereunder for each day the offense is continued.
- B. Any person who, with intent to defraud or deceive, knowingly makes a false statement in a home improvement contract, or in connection with the inducement to make a home improvement contract, or in securing a license, or in any proceeding with respect to the refusal, suspension, or revocation of a license, or in any response to any order, demand, or inquiry by the Board or by the Director or his designee with respect to a license or with respect to any home improvement contract shall be guilty of a class A misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment.

[Amended 8-5-2020 by L.L. No. 4-2020]

- C. Any willful or negligent failure by any person to comply with the other sections of this chapter shall constitute a violation and shall be punishable by a fine not exceeding \$250 or imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense shall constitute a separate and distinct violation hereunder for each day the offense is continued.
- D. The Director, as designated herein, and his employees shall have the power to issue appearance tickets as the same are defined in Article **150** of the Criminal Procedure Law.

[Amended 8-5-2020 by L.L. No. 4-2020]

- E. In addition to any criminal penalties provided in the preceding Subsections **A**, **B**, and **C** of this § **286-21** which may be imposed by a court of competent jurisdiction, an administrative notice of violation assessing a civil penalty not to exceed \$3,000 for any willful or negligent failure by any person to comply with any provision of this chapter may be issued by the Director, as designated herein, and his designees and sent by certified, registered, or ordinary mail to the person who has failed to comply. Each failure to comply with one or more separate and distinct provisions of this chapter shall constitute a separate and distinct failure to comply, for each of which the Director or his designees may issue a separate and distinct administrative notice of violation assessing a civil penalty not to exceed \$3,000. The continuation of any failure to comply shall constitute a separate and distinct failure to comply for each day the failure is continued. Any person aggrieved by the assessment of any civil penalty by the Director or his designees may, within 30 days after the mailing of the notice of violation, appeal the assessment to the Board. The Director may, with the consent of the County Executive, commence a civil action in any court of competent jurisdiction to collect any civil penalty assessed pursuant to this subsection that remains unpaid for more than 30 days after the mailing of the notice of violation or, if an appeal is taken to the Board or if a

further appeal is taken from the Board to the Legislature, more than 30 days after the determination by the Board or the appellate panel, as the case may be.

[Amended 8-5-2020 by L.L. No. 4-2020]

- F. Nothing herein contained shall prevent the Director, as designated herein, his designees, the Board, or other employee of the County designated by the Board from proceeding to enforce the requirements of this chapter by any one or any combination, successively or simultaneously, of the following: criminal proceedings as provided in Subsections **A**, **B**, **C**, and **D** of this section; civil penalty as provided in Subsection **E** of this section; or civil action for injunctive, declaratory, monetary, or other relief.

[Amended 8-5-2020 by L.L. No. 4-2020]

- G. The Director may refuse to issue a license or a renewal thereof to any person who has failed to pay any fine or civil penalty imposed pursuant to this chapter. Any person aggrieved by the refusal of the Director to issue a license or a renewal thereof pursuant to this subsection may, within 30 days after the mailing of the notice of such refusal, appeal the refusal to the Board. The Board may suspend or revoke the license of, or refuse to issue a license or a renewal thereof to, any person who has failed to pay any fine or civil penalty imposed pursuant to this chapter.

[Amended 8-5-2020 by L.L. No. 4-2020]

- H. Impoundment. In addition to the criminal and civil penalties, the Rockland County department having enforcement powers may, in its discretion, impound the equipment used during the violation of § **286-3** as follows:

[Added 9-16-2009 by L.L. No. 3-2009]

- (1) Any police officer or authorized officer, employee or agent of the Office of Consumer Protection, upon service on the operator of a vehicle and/or person in possession of tools or implements of a notice of violation for operating without a license required by § **286-3** of this chapter, may seize and impound any vehicle, tool or other implement which such officer has reasonable cause to believe is being used in connection with such violation. If stopping the work and impounding any vehicle, tools or implements shall result in rendering the premises being worked on uninhabitable or unsecured, the police officer or authorized officer, employee or agent of the Office of Consumer Protection issuing the notice of violation shall have the discretion to permit the worker or workers to either complete the work or in some manner render the premises temporarily habitable and secure prior to impounding any vehicle, tools or other implements. Any vehicle, tool or implement seized pursuant to this subsection shall remain in the custody of the department or agency of the police officer or authorized officer, employee or agent who impounded the vehicle, tools or other implements.
- (2) A person from whom a vehicle, tool or implement has been seized and impounded pursuant to this subsection shall receive notice at the time of such seizure and by overnight mail, as soon thereafter as practical, informing such person how and when the vehicle, tool or implement may be reclaimed. In the event that the person from whom the vehicle was seized is not the registered owner of the vehicle, separate notice shall be provided by overnight mail to the registered owner of the vehicle.
- (3) The Director or the designee of the Director shall hold a hearing in accordance with the provisions of § **286-22** of the Laws of Rockland County not otherwise in conflict with this subsection, to adjudicate the violation of § **286-3** of this chapter underlying the seizure and impoundment within five business days after the date of such seizure and impoundment and shall render his or her determination immediately following the conclusion of such hearing. Such

determination shall also include a finding as to whether or not such vehicle, tool or other implement was used in connection with such violation and, if necessary, an additional finding as to whether the owner of such property, if not the person served with a notice of violation pursuant to § **286-21E**, permitted the use of such property under circumstances evincing that such owner knew or should have known that such property would be used for the conduct that was the basis for the seizure of the property. There shall be a rebuttable presumption that such owner knew or should have known that such property would be used for the conduct that was the basis for the seizure of the property, if such owner was the employer, corporate owner or partner, parent, legal guardian or spouse of the person served with a notice of violation pursuant to § **286-21E** at the time of the seizure. In the event that the property impounded is released to the owner of said property pursuant to Subsection **H(4)** of this subsection, the hearing may be rescheduled to a later date within a reasonable time period.

[Amended 8-5-2020 by L.L. No. 4-2020]

- (4) A vehicle, tool or other implement seized and impounded pursuant to this subsection may be released to the owner of such property prior to the hearing provided in Subsection **H(3)** of this subsection upon the posting of an all-cash bond in a form satisfactory to the Director in an amount sufficient to cover: (a) the maximum civil penalties which may be imposed for the violation of § **286-3** of this chapter underlying the seizure and impoundment; and (b) all reasonable costs for removal and storage of such vehicle, tool or implement. Release to a person claiming such property shall be conditioned on presentation of, in the case of (i) a vehicle, proof of ownership or authorization from the owner of the vehicle as ownership is defined by § **388** of the Vehicle and Traffic Law, or (ii) in the case of a tool or other implement or equipment, proof of ownership or authorization by the owner satisfactory to the Director. The owner of said vehicle, tool or other implement seized is entitled, within 48 hours of a written request, to a hearing before an independent hearing examiner to determine if there was reasonable cause to seize and impound said vehicle, tool or other implement. In the event the independent hearing examiner determines that there was not reasonable cause to seize said vehicle, tool or other implement, said vehicle, tool or other implement shall promptly be released to its owner upon written demand and proof of ownership as provided above.
[Amended 8-5-2020 by L.L. No. 4-2020]
- (5) Following an adjudication that has resulted in a determination that the vehicle, tool or other implement was used in connection with unlicensed activity in violation § **286-3** of this chapter, release of such vehicle, tool or other implement to the owner of such property may be obtained upon payment of:
 - (a) All civil penalties for the violation of § **286-3** of this chapter underlying the seizure and impoundment; and
 - (b) All reasonable costs for removal and storage of such vehicle, tool or implement and proof of ownership as provided in Subsection **H(4)** of this subsection.
- (6) No person shall obtain release of a vehicle, tool or other implement pursuant to Subsection **H(4)** of this subsection, unless and until such person submits an application for a home improvement license, or reinstatement of such a license, as appropriate, to the Director in the form and containing the information required by the Director. Notwithstanding the provisions of this subsection, in the event that the owner of the vehicle, tool or other implement was not the person who was served with a notice of violation alleging a violation of the provisions of § **286-3** of this chapter or found to be in violation of the provisions of § **286-3** of this chapter, the owner may obtain release upon

payment of all reasonable costs of removal and storage as provided herein and upon execution of a sworn statement, subject to the provisions of the **Penal Law** relative to false statements and satisfactory to the Director, that he or she will not permit the person who is alleged to have violated or found to have violated such provisions to operate or possess the vehicle, tool or other implement in violation of § **286-3** of this chapter.

[Amended 5-4-2010 by L.L. No. 6-2010; 8-5-2020 by L.L. No. 4-2020]

- (7) After adjudication of the violation underlying the seizure in accordance with Subsection **H(3)** of this subsection, if the Director or the designee of the Director finds that the vehicle, tool or other implement has not been used in connection with unlicensed activity under the provisions of § **286-3** of this chapter, the Office of Consumer Protection shall promptly cause such vehicle, tool or other implement to be released to its lawful owner upon written demand of the owner. If applicable, the Department of Consumer Protection shall also promptly return any cash bond posted pursuant to Subsection **H(4)** of this subsection in accordance with the determination of the Director or the designee of the Director pursuant to Subsection **H(3)** of this subsection.

[Amended 8-5-2020 by L.L. No. 4-2020]

- (8) In the event that property impounded pursuant to this subsection is not released to its owner due to the owner's failure to respond to the notice of violation and appear at three hearing dates scheduled at least one month apart, said property will be considered lost and abandoned property, the disposition of which is governed by New York State law under Personal Property Law § **253**.

§ 286-22. Director's powers.

[Amended 7-3-2007 by L.L. No. 9-2007; 8-5-2020 by L.L. No. 4-2020]

- A. The Director and his designees may conduct initial investigations of complaints filed with his office with regard to violation(s) of this chapter or of rules or regulations adopted hereunder.
- B. The Director and his designees may conduct an initial hearing or hearings for the purpose of taking testimony, reporting findings of fact, recommendations and decisions as a hearing officer concerning any investigation, inquiries or violations of this section or rule or regulation adopted hereunder.
- C. Any person or persons aggrieved by the action of the Director's or his designees' recommendations and decisions may take an appeal therefrom to the Board within 30 days after the same has been filed with the Board.

§ 286-23. Severability.

If any part of this chapter, or the application thereof to any person or circumstances, shall be it judged invalid by any court of competent jurisdiction, such judgment shall be confined it its operation to the parts of the provision 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 any other persons or circumstances.