



# the Advocate

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## Part Four: New Jersey's "Home Improvement Practices" Administrative Regulations

This is the fourth article in a series examining the administrative regulations titled "Home Improvement Practices" contained in the New Jersey Administrative Code. N.J.A.C. 13:45A-16.1 et seq.

In the last article of this series (the Fall 2004 issue of The Advocate) we learned that the "Home Improvement Practices" regulations require all home improvement contracts for a purchase price in excess of \$200.00, as well as all changes to the terms and conditions thereof, to be in writing. In addition, we learned about many of the required provisions to be included in such written contracts.

In this article, we will review some of the "unlawful practices" that are expressly prohibited under N.J.A.C. 13:45A-16.2.

### Unlawful Practices

Subsection 16.2(a)(1) is concerned with unlawful practices regarding model home representations. Specifically, N.J.A.C. 13:45A-16.2(a)(1) states that it is unlawful to "Misrepresent or falsely state to a prospective buyer that the buyer's residential or noncommercial property is to serve as a "model" or "advertising job", or use any other prospective buyer lure to mislead the buyer into believing that a price

reduction or other compensation will be received by reason of such representations."

### Product and Material Representations

Subsection 16.2(a)(2) contains a list of prohibited practices regarding products and materials. It is unlawful to misrepresent, directly or by implication, that the products or materials to be used in the home improvement:

Need no periodic repainting, finishing, maintenance or other service; N.J.A.C. 13:45A-16.2(a)(2)(i)

Are of a specific or well-known brand name, or are produced by a specific manufacturer or exclusively distributed by the seller; N.J.A.C. 13:45A-16.2(a)(2)(ii)

Are of a specific size, weight, grade or quality, or possess any other distinguishing characteristics or features; N.J.A.C. 13:45A-16.2(a)(2)(iii)

*Continued on reverse page...*

### **Out of Order**

A diminutive lawyer took the witness stand and was asked by opposing counsel, who stood six-foot-four, what he did for a living. The witness replied that he was a lawyer.

"You? A lawyer?" said the very tall attorney. "Why I could put you in my pocket."

"Perhaps you could. And if you did," retorted his shorter counterpart, "you'd have more law in your pocket than you've ever had in your head."

*This article was written by Leonard S. de Palma, Esq.*

Perform certain functions or substitute for, or are equal in performance to, other products or materials; N.J.A.C. 13:45A-16.2(a)(2)(iv)

Meet or exceed municipal, state, federal, or other applicable standards or requirements; N.J.A.C. 13:45A-16.2(a)(2)(v)

Are approved or recommended by any governmental agency, person, firm or organization, or that they are the users of such products or materials; N.J.A.C. 13:45A-16.2(a)(2)(vi)

Are of sufficient size, capacity, character or nature to do the job expected or represented; N.J.A.C. 13:45A-16.2(a)(2)(vii)

Are or will be custom-built or specially designed for the needs of the buyer; N.J.A.C. 13:45A-16.2(a)(2)(viii) or

May be serviced or repaired within the buyer's immediate trade area, or be maintained with replacement and repair parts which are readily available. N.J.A.C. 13:45A-16.2(a)(2)(ix).

#### Bait Selling

Subsection 16.2(a)(3) is titled "Bait Selling." This provision makes it unlawful to:

Offer or represent specific products or materials as being for sale, where the purpose or effect of the offer or representation is not to sell as represented but to bait or entice the buyer into the purchase of other or higher priced substitute products or materials; N.J.A.C. 13:45A-16.2(a)(3)(i)

Disparage, degrade or otherwise discourage the purchase of products or materials offered or represented by the seller as being for sale to induce the buyer to purchase other or higher priced substitute products or materials; N.J.A.C. 13:45A-16.2(a)(3)(ii)

Refuse to show, demonstrate or sell products or materials as advertised, offered, or represented as being for sale; N.J.A.C. 13:45A-16.2(a)(3)(iii)

Substitute products or materials for those specified in the home improvement contract, or otherwise represented or sold for use in the making of home improvements by sample, illustration or model, without the knowledge or consent of the buyer; N.J.A.C. 13:45A-16.2(a)(3)(iv)

Fail to have available a quantity of the advertised product sufficient to meet reasonably anticipated demands; N.J.A.C. 13:45A-16.2(a)(3)(v) or

Misrepresent that certain products or materials are unavailable or that there will be a long delay in their manufacture, delivery, service or installation in order to induce a buyer to purchase other or higher priced substitute products or materials from the seller. N.J.A.C. 13:45A-16.2(a)(3)(vi).

***The fifth and final installment  
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