

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2020**

No. 31

Introduced by Council Members Torres, Treyger, Holden, Cumbo, Kallos, Lander, Ayala, Barron, Rivera and Dromm.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to investigations of lead-based paint hazards by independent and certified inspectors, and contractor certifications for construction activities that disturb lead-based paint, and to repeal subdivision 9 of section 20-386 and subdivision 15 of section 20-393 of such administrative code, relating to salespersons for home improvement businesses

Be it enacted by the Council as follows:

Section 1. Subdivision 9 of section 20-386 of the administrative code of the city of New York is REPEALED and subdivisions 1 and 5 of such section 20-386 are amended to read as follows:

1. “Persons” means an individual, firm, company, [salesperson,] partnership, or corporation, trade group or association.

5. “Contractor” means any person [or salesperson], other than a bona fide employee of the owner, who owns, operates, maintains, conducts, controls or transacts a home improvement business and who undertakes or offers to undertake or agrees to perform any home improvement or solicits any contract therefor, whether or not such person is licensed or subject to the licensing requirements of this subchapter, and whether or not such person is a prime contractor or subcontractor with respect to the owner.

§ 2. Subdivision (a) of section 20-387 of the administrative code of the city of New York is amended to read as follows:

(a) No person shall solicit, canvass, sell, perform or obtain a home improvement contract as a contractor [or salesperson] from an owner without a license therefor.

§ 3. Subdivision 1 of section 20-388 of the administrative code of the city of New York is amended to read as follows:

1. The fee for a license to conduct a home improvement business shall be fifty dollars and for each renewal thereof the fee shall be fifty dollars. [The fee for a salesperson's license employed by a home improvement contractor shall be twenty-five dollars and for each renewal thereof the fee shall be twenty-five dollars.]

§ 4. Subdivisions 6 and 7 of section 20-390 of the administrative code of the city of New York are renumbered subdivisions 7 and 8, and a new subdivision 6 is added to read as follows:

6. Each applicant for a license or renewal thereof shall submit either (i) documentation satisfactory to the commissioner of the applicant's certification from the federal environmental protection agency, as required by subparts E and L of part 745 of title 40 of the code of federal regulations or successor regulations, or (ii) a signed affirmation that such certification is not required for any home improvement work performed by such applicant, in accordance with the rules of the department. Documentation of a certification submitted with an application for a license or a renewal thereof must include the name, EPA certificate number of the applicant, and the expiration date of such EPA certificate.

§ 5. Subdivision 15 of section 20-393 of the administrative code of the city of New York is REPEALED.

§ 6. Paragraphs b and c of subdivision 16 of section 20-393 of the administrative code of the city of New York, as renumbered by local law number 24 for the year 1996, are amended to read as follows:

b. No contractor [or salesperson] shall offer, deliver, pay, credit or allow to the owner any gift, bonus award or merchandise, trading stamps, or cash loan as an inducement to enter a home improvement contract.

c. A contractor [or salesperson] may give tangible items to prospective customers for advertising or sales promotion purposes where the gift is not conditioned upon obtaining a contract for home improvement work; provided no such item shall exceed a cost value of two dollars and fifty cents and no owner and/or other person shall receive more than one such item in connection with any one transaction.

§ 7. Section 27-2056.4 of the administrative code of the city of New York is amended by adding a new subdivision a-1, to be inserted after subdivision a and before subdivision b of such section, to read as follows:

a-1. Within five years of the effective date of this subdivision, or within one year after a child of applicable age comes to reside in a dwelling unit subject to the requirements of subdivision a of this section, whichever is sooner, one investigation for the presence of lead-based paint undertaken pursuant to subdivision a of this section shall be performed by a person who (i) is not the owner or the agent of the owner or any contractor hired to perform work related to the remediation of lead-based paint hazards, and (ii) is certified as an inspector or risk assessor pursuant to section 745.226 of title 40 of the code of federal regulations. Such inspection shall consist of the use of an x-ray fluorescence analyzer on all types of surfaces in accordance with the

procedures described in chapter 7 of the United States department of housing and urban development guidelines for the evaluation and control of lead-based paint hazards in housing, including on chewable surfaces, friction surfaces, and impact surfaces, to determine whether lead-based paint is present, and where such paint is located, in such dwelling unit. Provided, however, that the investigation specified by this subdivision shall not be required if an investigation that complies with the requirements of this subdivision was previously completed and the owner retains records of such investigation, or if the dwelling unit has an exemption from the presumption of lead paint, as provided in subdivision b of section 27-2056.5 of this article.

§ 8. Subdivision a of section 27-2056.17 of the administrative code of the city of New York, as amended by local law number 70 for the year 2019, is amended to read as follows:

a. The owner of any multiple dwelling or dwelling that performs any work or provides any notices pursuant to this article shall retain all records relating to such work or notices for a period of no less than ten years from the completion date of such work or notification, *as provided in the rules of the department and this article. If the multiple dwelling is subject to the requirements of section 27-2056.4 or section 27-2056.8, for each dwelling unit in such dwelling the owner shall keep a record of: (i) the date that such unit turned over whenever such turnover occurs; (ii) the name of each inspector, risk assessor or contractor who performed required investigations pursuant to subdivision a-1 of section 27-2056.4; (iii) all testing results performed pursuant to subdivision a-1 of section 27-2056.4 and any other lead based paint testing that has occurred in such unit; and (iv) whether the department has granted an exemption from the presumption established by section 27-2056.5 for any unit in the multiple dwelling.* The owner shall make any

such records required to be retained by this article available to the department upon the department's request, and shall transfer such records to the owner's successor in title.

§ 9. This local law takes effect 180 days after it becomes law, except that the commissioner of housing preservation and development, the commissioner of health and mental hygiene and the commissioner of consumer affairs shall take such actions as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on January 23, 2020 and approved by the Mayor on February 11, 2020.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 31 of 2020, Council Int. No. 919-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.