

Public Act 91-0230

HB1177 Enrolled

LRB9103438KSgc

AN ACT concerned with home repair and remodeling fraud.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Home Repair and Remodeling Act.

Section 5. Policy. It is the public policy of this State that in order to safeguard the life, health, property, and public welfare of its citizens, the business of home repair and remodeling is a matter affecting the public interest. The General Assembly recognizes that improved communications and accurate representations between persons engaged in the business of making home repairs or remodeling and their consumers will increase consumer confidence, reduce the likelihood of disputes, and promote fair and honest practices in that business in this State.

Section 10. Definitions. As used in this Act:

"Home repair and remodeling" means the fixing, replacing, altering, converting, modernizing, improving, or making of an addition to any real property primarily designed or used as a residence other than maintenance, service, or repairs under \$500. "Home repair and remodeling" includes the construction, installation, replacement, or improvement of driveways, swimming pools, porches, kitchens, bathrooms, basements, chimneys, chimney liners, garages, fences, fallout shelters, central air conditioning, central heating, boilers, furnaces, electrical wiring, sewers, plumbing fixtures, storm doors, windows, roofs, awnings, and other improvements to structures within the residence or upon the land adjacent to the residence. "Home repair and remodeling" does not include the sale, installation, cleaning, or repair of carpets; the repair, installation, replacement, or connection of any home appliance including, but not limited to, disposals, refrigerators, ranges, garage door openers, televisions or television antennas, washing machines, telephones, hot water heaters, satellite dishes, or other appliances when the persons replacing, installing, repairing, or connecting the home appliance are employees or agents of the merchant that sold the home appliance or sold new products of the same type; or landscaping.

"Person" means any individual, partnership, corporation, business, trust, or other legal entity.

"Residence" means a single-family home or dwelling or a multiple-family home or dwelling containing 6 or fewer apartments, condominiums, town houses, or dwelling units, used or intended to be used by occupants as dwelling places. This Act does not apply to original construction of single-family or multi-family residences or repairs to dwellings containing more than 6 apartments or family units.

Section 15. Written contract; costs enumerated. Prior to initiating home repair or remodeling work for over \$1,000, a person engaged in the business of home repair or remodeling shall furnish to the customer for signature a written contract or work order that states the total cost, including

parts and materials listed with reasonable particularity and any charge for an estimate. In addition, the contract shall state the business name and address of the person engaged in the business of home repair or remodeling. If the person engaged in the business of home repair or remodeling uses a post office box or mail receiving service or agent to receive home repair or remodeling business correspondence, the contract also shall state the residence address of the person engaged in the business of home repair or remodeling.

Section 20. Consumer rights brochure. (a) For any contract over \$1,000, any person engaging in the business of home repair and remodeling shall provide to its customers a copy of the "Home Repair: Know Your Consumer Rights" pamphlet prior to the execution of any home repair and remodeling contract. The consumer shall sign and date an acknowledgment form entitled "Consumer Rights Acknowledgment Form" that states: "I, the homeowner, have received from the contractor a copy of the pamphlet entitled 'Home Repair: Know Your Consumer Rights.'" The contractor or his or her representative shall also sign and date the acknowledgment form, which includes the name and address of the home repair and remodeling business. The acknowledgment form shall be in duplicate and incorporated into the pamphlet. The original acknowledgment form shall be retained by the contractor and the duplicate copy shall be retained within the pamphlet by the consumer.

(b) For any contract for \$1,000 or under, any person engaging in the business of home repair and remodeling shall provide to its customers a copy of the "Home Repair: Know Your Consumer Rights" pamphlet. No written acknowledgment of receipt of the pamphlet is required for a contract of \$1,000 or under.

(c) The pamphlet must be a separate document, in at least 12 point type, and in legible ink. The pamphlet shall read as follows:

"HOME REPAIR: KNOW YOUR CONSUMER RIGHTS

As you plan for your home repair/improvement project, it is important to ask the right questions in order to protect your investment. The tips in this fact sheet should allow you to protect yourself and minimize the possibility that a misunderstanding may occur.

AVOIDING HOME REPAIR FRAUD

Please use extreme caution when confronted with the following warning signs of a potential scam:

(1) Door-to-door salespersons with no local connections who offer to do home repair work for substantially less than the market price.

(2) Solicitations for repair work from a company that lists only a telephone number or a post-office box number to contact, particularly if it is an out-of-state company.

(3) Contractors who fail to provide customers references when requested.

(4) Persons offering to inspect your home for free. Do not admit anyone into your home unless he or she can present authentic identification establishing his or her business status. When in doubt, do not hesitate to call the worker's employer to verify his or her identity.

(5) Contractors demanding cash payment for a job or who ask you to make a check payable to a person other than the owner or company name.

(6) Offers from a contractor to drive you to the bank to withdraw funds to pay for the work.

CONTRACTS

- (1) Get all estimates in writing.
- (2) Do not be induced into signing a contract by high-pressure sales tactics.
- (3) Never sign a contract with blank spaces or one you do not fully understand. If you are taking out a loan to finance the work, do not sign the contract before your lender approves the loan.
- (4) Remember, you have 3 business days from the time you sign your contract to cancel any contract if the sale is made at your home. The contractor cannot deprive you of this right by initiating work, selling your contract to a lender, or any other tactic.
- (5) If the contractor does business under a name other than the contractor's real name, the business must either be incorporated or registered under the Assumed Business Name Act. Check with the Secretary of State to see if the business is incorporated or with the county clerk to see if the business has registered under the Assumed Business Name Act.
- (6) Homeowners should check with local and county units of government to determine if permits or inspections are required.
- (7) Determine whether the contractor will guarantee his or her work and products.
- (8) Determine whether the contractor has the proper insurance.
- (9) Do not sign a certificate of completion or make final payment until the work is done to your satisfaction.
- (10) Remember, homeowners should know who provides supplies and labor for any work performed on your home. Suppliers and subcontractors have a right to file a lien against your property if the general contractor fails to pay them. To protect your property, request lien waivers from the general contractor.

BASIC TERMS TO BE INCLUDED IN A CONTRACT

- (1) Contractor's full name, address, and telephone number. Illinois law requires that persons selling home repair and improvement services provide their customers with notice of any change to their business name or address that comes about prior to the agreed dates for beginning or completing the work.
- (2) A description of the work to be performed.
- (3) Starting and estimated completion dates.
- (4) Total cost of work to be performed.
- (5) Schedule and method of payment, including down payment, subsequent payments, and final payment.
- (6) A provision stating the grounds for termination of the contract by either party. However, the homeowner must pay the contractor for work completed. If the contractor fails to commence or complete work within the contracted time period, the homeowner may cancel and may be entitled to a refund of any down payment or other payments made towards the work, upon written demand by certified mail.

Homeowners should obtain a copy of the signed contract and keep it in a safe place for reference as needed.

IF YOU THINK YOU HAVE BEEN DEFRAUDED OR YOU HAVE QUESTIONS

If you think you have been defrauded by a contractor or have any questions, please bring it to the attention of your State's Attorney or the Illinois Attorney General's Office.

Attorney General Toll-Free Numbers
Carbondale (800) 243-0607
Springfield (800) 243-0618
Chicago (800) 386-5438".

Section 25. Insurance required. Any person engaged in the business of home repair and remodeling shall obtain and maintain in full force and effect during the operation of the business public liability and property damage insurance in the amount of \$100,000 per person and \$300,000 per occurrence of bodily injury, \$50,000 per occurrence for property damage, and in the amount of \$10,000 per occurrence for improper home repair or remodeling not in conformance with applicable State, county, or municipal building codes, unless the person has a net worth of not less than \$1,000,000 as determined on the basis of the person's most recent financial statement, prepared within 13 months.

Section 30. Unlawful acts. It is unlawful for any person engaged in the business of home repairs and remodeling to remodel or make repairs or charge for remodeling or repair work before obtaining a signed contract or work order over \$1,000. This conduct is unlawful but is not exclusive nor meant to limit other kinds of methods, acts, or practices that may be unfair or deceptive.

Section 35. Enforcement.

(a) The Attorney General or the State's Attorney of any county in this State may bring an action in the name of the people of this State against any person to restrain and prevent any pattern or practice violation of this Act. In the enforcement of this Act, the Attorney General or the State's Attorney may accept an assurance of voluntary compliance from anyone engaged in any conduct, act, or practice deemed in violation of this Act. Failure to perform the terms of any such assurance constitutes prima facie evidence of a violation of this Act.

(b) All remedies, penalties, and authority granted to the Attorney General or the State's Attorney of any county in this State by the Consumer Fraud and Deceptive Business Practices Act shall be available to him or her for enforcement of this Act, and any violation of this Act shall constitute a violation of the Consumer Fraud and Deceptive Business Practices Act.

Section 900. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2Z as follows:

(815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

Sec. 2Z. Violations of other Acts. Any person who knowingly violates the Automotive Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Care Act, or the Pre-Need Cemetery Sales Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 89-72, eff. 12-31-95; 89-615, eff. 8-9-96; 90-426, eff. 1-1-98.)

Section 999. Effective date. This Act takes effect
January 1, 2000.

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