
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 961

Session of
1993

INTRODUCED BY WOGAN, J. TAYLOR, FAJT, HECKLER, OLASZ, NAILOR,
TIGUE, CORNELL, FAIRCHILD, LAUB, DeLUCA, VEON, RAYMOND,
GLADECK, SAURMAN, LAUGHLIN, WOZNIAK, ROONEY, FARMER, ADOLPH,
GORDNER, NYCE, BELFANTI, HASAY, CESSAR, STEIL, GERLACH,
KASUNIC, MIHALICH, STERN, KENNEY, CORRIGAN, KING, MILLER,
GEIST, MELIO, L. I. COHEN AND MARSICO, MARCH 25, 1993

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 25, 1993

AN ACT

1 Providing for home repair fraud; and imposing penalties.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Home Repair
6 Fraud Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Home repair." The fixing, replacing, altering, converting,
12 modernizing, improving of or making of an addition to any real
13 property primarily designed or used as a residence. The term
14 shall include the construction, installation, replacement or
15 improvement of driveways, swimming pools, porches, kitchens,

1 chimneys, chimney liners, garages, fences, fallout shelters,
2 central air-conditioning, central heating, boilers, furnaces,
3 hot water heaters, electrical wiring, sewers, plumbing fixtures,
4 storm doors, storm windows, awnings and other improvements to
5 structures within the residence or upon the land adjacent
6 thereto. The term shall not include:

7 (1) The sale, installation, cleaning or repair of
8 carpets.

9 (2) The sale of goods or materials by a merchant who
10 does not directly or through a subsidiary perform any work or
11 labor in connection with the installation or application of
12 the goods or materials.

13 (3) The repair, installation, replacement or connection
14 of any home appliance, including, but not limited to,
15 disposals, refrigerators, ranges, garage door openers,
16 television antennas, washing machines, telephones or other
17 home appliances when the person replacing, installing,
18 repairing or connecting the home appliance is an employee or
19 agent of the merchant that sold the home appliance.

20 (4) Landscaping.

21 "Person." Any individual, partnership, corporation,
22 business, trust or other legal entity.

23 "Residence." A single or multiple family dwelling,
24 including, but not limited to, a single family home, apartment
25 building, condominium, duplex or townhouse which is used or
26 intended to be used by its occupants as their dwelling place.

27 Section 3. Construction.

28 Nothing in this act shall be construed to apply to original
29 construction of a single or a multiple family residence.

30 Section 4. Home repair fraud.

1 (a) Fraud described.--A person commits the offense of home
2 repair fraud when he knowingly enters into an agreement or
3 contract, written or oral, with a person for home repair, and he
4 knowingly does any of the following:

5 (1) Misrepresents a material fact relating to the terms
6 of the contract or agreement or the preexisting or existing
7 condition of any portion of the property involved, or creates
8 or confirms another's impression which is false and which he
9 does not believe to be true, or promises performance which he
10 does not intend to perform or knows will not be performed.

11 (2) Uses or employs any deception, false pretense or
12 false promises in order to induce, encourage or solicit a
13 person to enter into any contract or agreement.

14 (3) Enters into an unconscionable agreement or contract,
15 requiring payment to the contractor of at least \$4,000. A
16 contract is unconscionable within the meaning of this act
17 when an unreasonable difference exists between the value of
18 the services, materials and work to be performed and the
19 amount charged for those services, materials and work. For
20 purposes of this section, prima facie evidence shall exist
21 that the contract or agreement is unconscionable if the total
22 payment called for by the contract or agreement is in excess
23 of four times the fair market value for those services,
24 materials and work.

25 (4) Misrepresents or conceals either his real name, the
26 name of his business or his business address.

27 (b) Additional fraudulent circumstances.--A person commits
28 the offense of home repair fraud when he knowingly does any of
29 the following:

30 (1) Damages the property of a person with the intent to

1 enter into an agreement or contract for home repair.

2 (2) Misrepresents himself or another to be an employee
3 or agent of any unit of the Federal, State or municipal
4 government or any other governmental unit, or an employee or
5 agent of any public utility, with the intent to cause a
6 person to enter into, with himself or another, any contract
7 or agreement for home repair.

8 Section 5. Aggravated home repair fraud.

9 (a) General rule.--A person commits the offense of
10 aggravated home repair fraud when he commits home repair fraud
11 against a person 60 years of age or older.

12 (b) Defense.--A defense to subsection (a) does not exist
13 merely because the accused believed the victim to be a person
14 under 60 years of age.

15 Section 6. Penalties.

16 A person who violates this act is subject to the following
17 penalties:

18 (1) Violation of section 4(a)(1) or (2) shall constitute
19 a felony of the third degree when the amount of the contract
20 or agreement is more than \$1,000, a misdemeanor of the first
21 degree when the amount of the contract or agreement is \$1,000
22 or less and a felony of the third degree for a second or
23 subsequent offense when the amount of the contract or
24 agreement is \$1,000 or less. If two or more contracts or
25 agreements for home repair exceed an aggregate amount of
26 \$1,000 or more and the contracts or agreements are entered
27 into with the same victim by one or more of the defendants as
28 part of or in furtherance of a common fraudulent scheme,
29 design or intention, the violation shall constitute a felony
30 of the third degree.

1 (2) Violation of section 4(a)(3) shall constitute a
2 felony of the second degree when the amount of the contract
3 or agreement is more than \$10,000 and a felony of the third
4 degree when the amount of the contract or agreement is
5 \$10,000 or less.

6 (3) Violation of section 4(a)(4) shall constitute a
7 felony of the third degree when the amount of the contract or
8 agreement is more than \$1,000, a misdemeanor of the first
9 degree when the amount of the contract or agreement is \$1,000
10 or less and a felony of the third degree for a second or
11 subsequent offense when the amount of the contract or
12 agreement is \$1,000 or less. If two or more contracts or
13 agreements for home repair exceed an aggregate amount of
14 \$1,000 or more and the contracts or agreements are entered
15 into with the same victim by one or more of the defendants as
16 part of or in furtherance of a common fraudulent scheme,
17 design or intention, the violation shall constitute a felony
18 of the third degree.

19 (4) Violation of section 4(b)(1) or (2) shall constitute
20 a felony of the third degree.

21 (5) Aggravated violation of section 4(a)(1) or (2) shall
22 constitute a felony of the first degree when the amount of
23 the contract or agreement is more than \$1,000, a felony of
24 the third degree when the amount of the contract or agreement
25 is \$1,000 or less and a felony of the second degree for a
26 second or subsequent offense when the amount of the contract
27 or agreement is \$1,000 or less. If two or more contracts or
28 agreements for home repair exceed an aggregate amount of
29 \$1,000 or more and the contracts or agreements are entered
30 into with the same victim by one or more of the defendants as

1 part of or in furtherance of a common fraudulent scheme,
2 design or intention, the violation shall constitute a felony
3 of the first degree.

4 (6) Aggravated violation of section 4(a)(3) shall
5 constitute a felony of the first degree when the amount of
6 the contract or agreement is more than \$10,000 and a felony
7 of the second degree when the amount of the contract or
8 agreement is \$10,000 or less.

9 (7) Aggravated violation of section 4(b)(1) or (2) shall
10 constitute a felony of the second degree.

11 Section 7. Repeals.

12 All acts and parts of acts are repealed insofar as they are
13 inconsistent with this act.

14 Section 8. Effective date.

15 This act shall take effect in 60 days.