

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1543 Session of 2013

INTRODUCED BY KILLION, MILLARD, SWANGER, COHEN, ELLIS, HACKETT, MALONEY, KAUFFMAN, KORTZ, GINGRICH, REESE, PYLE AND FARRY, JUNE 18, 2013

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 24, 2014

AN ACT

1 Amending the act of October 17, 2008 (P.L.1645, No.132),
2 entitled "An act providing for the regulation of home
3 improvement contracts and for the registration of certain
4 contractors; prohibiting certain acts; and providing for
5 penalties," providing for the definition of "time and
6 materials"; and further providing for APPLICATION FEES AND
7 FOR home improvement contracts. <--

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of October 17, 2008
11 (P.L.1645, No.132), known as the Home Improvement Consumer
12 Protection Act, is amended by adding a definition to read:

13 Section 2. Definitions.

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

17 * * *

18 "Time and materials." A construction practice where the
19 contractor and owner agree that the contractor will perform the

1 home improvement and the owner will pay the contractor under the
2 home improvement contract based on the actual cost of labor at a
3 specified hourly rate and the actual costs of materials and use
4 of equipment, plus an agreed upon percentage of the total ACTUAL <--
5 costs or a fixed amount, OVER AND ABOVE THE ACTUAL COSTS, to <--
6 cover the contractor's fee and overhead costs reasonably
7 incurred in the performance of the home improvement.

8 ~~Section 2. Section 7(a)(8) of the act is amended to read: <--~~

9 SECTION 2. SECTIONS 5(B)(2) AND 7(A)(8) OF THE ACT ARE <--

10 AMENDED TO READ:

11 SECTION 5. APPLICATION FEES.

12 * * *

13 (B) HOME IMPROVEMENT ACCOUNT.--

14 * * *

15 (2) THE FUNDS IN THE HOME IMPROVEMENT ACCOUNT AND ANY
16 INTEREST EARNED ON THE FUNDS [MAY BE] ARE HEREBY APPROPRIATED
17 ON A CONTINUING BASIS TO THE ATTORNEY GENERAL FOR
18 ADMINISTERING AND ENFORCING THE PROVISIONS OF THIS ACT AND TO
19 PROTECT CONSUMERS WITH RESPECT TO HOME IMPROVEMENTS THROUGH
20 CONSUMER EDUCATION AND OTHER MEANS.

21 Section 7. Home improvement contracts.

22 (a) Requirements.--No home improvement contract shall be
23 valid or enforceable against an owner unless it:

24 * * *

25 (8) Includes the total sales price due under the
26 contract or includes a time and materials provision wherein
27 contractor and owner agree in writing to the performance of
28 the home improvement by the contractor and payment for the
29 home improvement by the owner, based on time and materials, <--
30 with the contractor's fee, whether a percentage of the total

1 ~~costs or a fixed amount, being listed separately.~~ IF THE <--
2 CONTRACT INCLUDES A TIME AND MATERIALS PROVISION:

3 (I) THE CONTRACTOR SHALL PROVIDE AN INITIAL COST
4 ESTIMATE IN WRITING TO THE OWNER BEFORE ANY PERFORMANCE
5 OF THE HOME IMPROVEMENT COMMENCES.

6 (II) THE CONTRACT SHALL STATE:

7 (A) THE DOLLAR VALUE OF THE INITIAL COST
8 ESTIMATE FOR THE SERVICES TO BE PERFORMED UNDER THE
9 TIME AND MATERIALS PROVISION.

10 (B) THAT THE COST OF THE SERVICES TO BE
11 PERFORMED UNDER THE TIME AND MATERIALS PROVISION MAY
12 NOT EXCEED 10% ABOVE THE DOLLAR VALUE INDICATED IN
13 THE INITIAL COST ESTIMATE.

14 (C) THE TOTAL POTENTIAL COST OF THE SERVICES TO
15 BE PERFORMED UNDER THE TIME AND MATERIALS PROVISION,
16 INCLUDING THE INITIAL COST ESTIMATE AND THE 10%
17 REFERENCED IN CLAUSE (B), EXPRESSED IN ACTUAL
18 DOLLARS.

19 (D) A STATEMENT THAT THE COST OF THE SERVICES TO
20 BE PERFORMED UNDER THE TIME AND MATERIALS PROVISION
21 SHALL NOT BE INCREASED OVER THE INITIAL COST ESTIMATE
22 PLUS A 10% INCREASE WITHOUT A WRITTEN CHANGE ORDER
23 SIGNED BY THE OWNER AND CONTRACTOR.

24 * * *

25 Section 3. This act shall take effect immediately.