

1 AN ACT concerning criminal law.

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

4 Section 5. The Home Repair Fraud Act is amended by  
5 changing Section 3 as follows:

6 (815 ILCS 515/3) (from Ch. 121 1/2, par. 1603)

7 Sec. 3. Home Repair Fraud.

8 (a) A person commits the offense of home repair fraud when  
9 he knowingly enters into an agreement or contract, written or  
10 oral, with a person for home repair, and he knowingly:

11 (1) Misrepresents a material fact relating to the  
12 terms of the contract or agreement or the preexisting or  
13 existing condition of any portion of the property  
14 involved, or creates or confirms another's impression  
15 which is false and which he does not believe to be true, or  
16 promises performance which he does not intend to perform  
17 or knows will not be performed; or

18 (2) uses or employs any deception, false pretense or  
19 false promises in order to induce, encourage or solicit  
20 such person to enter into any contract or agreement; or

21 (3) enters into an unconscionable agreement or  
22 contract requiring payment to the contractor of at least  
23 \$4,000. A contract is unconscionable within the meaning of

1           this Act when an unreasonable difference exists between  
2           the value of the services, materials and work to be  
3           performed and the amount charged for those services,  
4           materials and work. For purposes of this Section, prima  
5           facie evidence shall exist that the contract or agreement  
6           is unconscionable if the total payment called for by the  
7           contract or agreement is in excess of four times the fair  
8           market value for those services, materials and work; or

9           (4) fails to comply with the provisions of "An Act in  
10          relation to the use of an assumed name in the conduct or  
11          transaction of business in this State", approved July 17,  
12          1941, as amended, and misrepresents or conceals either his  
13          real name, the name of his business, or his business  
14          address.

15          (b) A person commits the offense of home repair fraud when  
16          he knowingly:

17               (1) damages the property of a person with the intent  
18               to enter into an agreement or contract for home repair; ~~or~~

19               (2) misrepresents himself or another to be an employee  
20               or agent of any unit of the federal, State or municipal  
21               government or any other governmental unit, or an employee  
22               or agent of any public utility, with the intent to cause a  
23               person to enter into, with himself or another, any  
24               contract or agreement for home repair; or ~~or~~

25               (3) promises performance which the person knows will  
26               not be completed at any time during the performance of the

1           service.

2           (c) For purposes of subsection (a), paragraph (1), it  
3 shall be a rebuttable presumption of intent or knowledge that  
4 a person promises performance which he does not intend to  
5 perform and knows will not be performed when, after no  
6 performance or no substantial performance of a contract or  
7 agreement for home repair, he fails or refuses to return  
8 payments made by the victim and he:

9           (1) fails to acknowledge or respond to a written  
10 demand for commencement or completion of home repair  
11 within 10 days after such demand is mailed or presented to  
12 him by the victim or by the victim's legal representative  
13 or by a law enforcement or consumer agency acting on  
14 behalf of the victim; or

15           (2) fails to notify the victim in writing of a change  
16 of business name or address prior to the completion of the  
17 home repair; or

18           (3) makes false statements or representations to the  
19 victim to excuse his non-performance or non-substantial  
20 performance; or

21           (4) uses deception to obtain the victim's consent to  
22 modification of the terms of the original contract or  
23 agreement; or

24           (5) fails to employ qualified personnel necessary to  
25 perform the home repair; or

26           (6) fails to order or purchase the basic materials

1 required for performance of the home repair; or

2 (7) fails to comply with municipal, county, State or  
3 federal regulations or codes relating to the performance  
4 of home repair.

5 Intent and knowledge shall be determined by an evaluation  
6 of all circumstances surrounding a transaction and the  
7 determination shall not be limited to the time of contract or  
8 agreement.

9 Substantial performance shall not include work performed  
10 in a manner of little or no value or work that fails to comply  
11 with the appropriate municipal, county, State or federal  
12 regulations or codes.

13 (Source: P.A. 87-820.)