



Sen. Rachelle Crowe

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10200SB0769sam001

LRB102 04587 KTG 25826 a

1 AMENDMENT TO SENATE BILL 769

2 AMENDMENT NO. _____. Amend Senate Bill 769 by replacing
3 everything after the enacting clause with the following:

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

1 or knows will not be performed; or

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

5 (3) enters into an unconscionable agreement or
6 contract requiring payment to the contractor of at least
7 \$4,000. A contract is unconscionable within the meaning of
8 this Act when an unreasonable difference exists between
9 the value of the services, materials and work to be
10 performed and the amount charged for those services,
11 materials and work. For purposes of this Section, prima
12 facie evidence shall exist that the contract or agreement
13 is unconscionable if the total payment called for by the
14 contract or agreement is in excess of four times the fair
15 market value for those services, materials and work; or

16 (4) fails to comply with the provisions of "An Act in
17 relation to the use of an assumed name in the conduct or
18 transaction of business in this State", approved July 17,
19 1941, as amended, and misrepresents or conceals either his
20 real name, the name of his business, or his business
21 address.

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

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

26 (2) misrepresents himself or another to be an employee

1 or agent of any unit of the federal, State or municipal
2 government or any other governmental unit, or an employee
3 or agent of any public utility, with the intent to cause a
4 person to enter into, with himself or another, any
5 contract or agreement for home repair; or -

6 (3) promises performance which the person knows will
7 not be completed at any time during the performance of the
8 service.

9 (c) For purposes of subsection (a), paragraph (1), it
10 shall be a rebuttable presumption of intent or knowledge that
11 a person promises performance which he does not intend to
12 perform and knows will not be performed when, after no
13 performance or no substantial performance of a contract or
14 agreement for home repair, he fails or refuses to return
15 payments made by the victim and he:

16 (1) fails to acknowledge or respond to a written
17 demand for commencement or completion of home repair
18 within 10 days after such demand is mailed or presented to
19 him by the victim or by the victim's legal representative
20 or by a law enforcement or consumer agency acting on
21 behalf of the victim; or

22 (2) fails to notify the victim in writing of a change
23 of business name or address prior to the completion of the
24 home repair; or

25 (3) makes false statements or representations to the
26 victim to excuse his non-performance or non-substantial

1 performance; or

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

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

7 (6) fails to order or purchase the basic materials
8 required for performance of the home repair; or

9 (7) fails to comply with municipal, county, State or
10 federal regulations or codes relating to the performance
11 of home repair.

12 Intent and knowledge shall be determined by an evaluation
13 of all circumstances surrounding a transaction and the
14 determination shall not be limited to the time of contract or
15 agreement.

16 Substantial performance shall not include work performed
17 in a manner of little or no value or work that fails to comply
18 with the appropriate municipal, county, State or federal
19 regulations or codes.

20 (Source: P.A. 87-820.)".