

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Home improvement fraud

4 Statement of purpose of bill as introduced: This bill proposes to amend the
5 criminal home improvement fraud statute to clarify that a contractor's failure
6 to perform work together with the conversion of the owner's money to his or
7 her own use is a criminal violation covered by this statute.

8 An act relating to home improvement fraud

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 13 V.S.A. § 2029 is amended to read:

11 § 2029. HOME IMPROVEMENT FRAUD

12 (a) As used in this section, "home improvement" includes the fixing,
13 replacing, remodeling, removing, renovation, alteration, conversion,
14 improvement, demolition, or rehabilitation of or addition to any building or
15 land, or any portion thereof, which is used or designed to be used as a
16 residence or dwelling unit. Home improvement shall include the construction,
17 replacement, installation, paving, or improvement of driveways, roofs, and
18 sidewalks, and the limbing, pruning, and removal of trees or shrubbery and
19 other improvements to structures or upon land that is adjacent to a dwelling
20 house.

1 (b) A person commits the offense of home improvement fraud when he or
2 she ~~knowingly~~ enters into a contract or agreement, written or oral, for \$500.00
3 or more, with an owner for home improvement, or into several contracts or
4 agreements for \$2,500.00 or more in the aggregate, with more than one owner
5 for home improvement, and he or she knowingly:

6 (1)(A) ~~promises performance that he or she does not intend to perform~~
7 ~~or knows will not be performed, in whole or in part; fails to perform the~~
8 contract or agreement, in whole or in part; and

9 (B) when the owner requests performance or a refund of payment
10 made, the person fails to either:

11 (i) refund the payment, or;

12 (ii) make and comply with a definite plan for completion of the
13 work that is agreed to by the owner;

14 (2) misrepresents a material fact relating to the terms of the contract or
15 agreement or to the condition of any portion of the property involved;

16 (3) uses or employs any unfair or deceptive act or practice in order to
17 induce, encourage, or solicit such person to enter into any contract or
18 agreement or to modify the terms of the original contract or agreement; or

19 (4) when there is a declared state of emergency, charges for goods or
20 services related to the emergency a price that exceeds two times the average

1 price for the goods or services and the increase is not attributable to the
2 additional costs incurred in connection with providing those goods or services.

3 (c) ~~It shall be a permissive inference that the person acted knowingly under~~
4 ~~subdivision (b)(1) of this section if the person fails to perform the contract or~~
5 ~~agreement and, when the owner requests performance of the contract or~~
6 ~~agreement or a refund of payments made, the person fails to:~~

7 ~~(1) return the payments or deliver the materials or make and comply~~
8 ~~with a reasonable written repayment plan for the return of the payments; or~~

9 ~~(2) make and comply with a reasonable written plan for completion of~~
10 ~~the contract or agreement.~~

11 (d) Whenever a person is convicted of home improvement fraud or of
12 fraudulent acts related to home improvement:

13 (1) the person shall notify the ~~office of attorney general~~ Office of the
14 Attorney General;

15 (2) the court shall notify the ~~office of the attorney general~~ Office of the
16 Attorney General; and

17 (3) the ~~office of attorney general~~ Office of the Attorney General shall
18 place the person's name on the ~~home improvement fraud registry~~ Home
19 Improvement Fraud Registry.

1 ~~(e)~~(d)(1) A person who violates subsection (b) of this section shall be
2 imprisoned not more than two years or fined not more than \$1,000.00, or both,
3 if the loss to a single consumer is less than \$1,000.00.

4 (2) A person who is convicted of a second or subsequent violation of
5 subdivision (1) of this subsection shall be imprisoned not more than three years
6 or fined not more than \$5,000.00, or both.

7 (3) A person who violates subsection (b) of this section shall be
8 imprisoned not more than three years or fined not more than \$5,000.00, or
9 both, if:

10 (A) the loss to a single consumer is \$1,000.00 or more; or

11 (B) the loss to more than one consumer is \$2,500.00 or more in the
12 aggregate.

13 (4) A person who is convicted of a second or subsequent violation of
14 subdivision (3) of this subsection shall be imprisoned not more than five years
15 or fined not more than \$10,000.00, or both.

16 (5) A person who violates subsection ~~(d)~~(c) or ~~(f)~~(e) of this section shall
17 be imprisoned for not more than two years or fined not more than \$1,000.00,
18 or both.

19 ~~(f)~~(e) A person who is sentenced pursuant to subdivision ~~(e)~~(d)(2), (3), or
20 (4) of this section, or convicted of fraudulent acts related to home

1 improvement, may engage in home improvement activities for compensation
2 only if:

3 (1) the work is for a company or individual engaged in home
4 improvement activities, and the person first notifies the company or individual
5 of the conviction and notifies the ~~office of attorney general~~ Office of the
6 Attorney General of the person's current address and telephone number; the
7 name, address, and telephone number of the company or individual for whom
8 the person is going to work; and the date on which the person will start
9 working for the company or individual; or

10 (2) the person notifies the ~~office of attorney general~~ Office of the
11 Attorney General of the intent to engage in home improvement activities, and
12 that the person has filed a surety bond or an irrevocable letter of credit with the
13 ~~office~~ Office in an amount of not less than \$50,000.00, and pays on a regular
14 basis all fees associated with maintaining such bond or letter of credit.

15 ~~(g)~~(f) The ~~office of attorney general~~ Office of the Attorney General shall
16 release the letter of credit at such time when:

17 (1) any claims against the person relating to home improvement fraud
18 have been paid;

19 (2) there are no pending actions or claims against the person for home
20 improvement fraud; and

1 (3) the person has not been engaged in home improvement activities for
2 at least six years and has signed an affidavit so attesting.

3 ~~(h) A person who is convicted of fraudulent acts related to home~~
4 ~~improvement shall be required to comply with subsections (d) and (f) of this~~
5 ~~section.~~

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on passage.