

1 STATE OF OKLAHOM

2 2nd Session of the 52nd Legislature (2010)

3 2ND CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL 2236

By: (Wyrick), Coates and  
Johnson (Constance) of the  
Senate

6 and

7 Jones of the House

8  
9  
10 2ND CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to contracts; amending 15 O.S. 2001,  
12 Section 765.3, which relates to consumer protection;  
13 modifying language; modifying acts constituting home  
14 repair fraud; prohibiting misrepresentation of  
15 licensure, insurance or bond; prohibiting exhibiting  
16 false credentials; stating additional penalty;  
17 defining term; construing certain lien null and void;  
18 and providing an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 15 O.S. 2001, Section 765.3, is  
21 amended to read as follows:

22 Section 765.3 A. A person commits the offense of home repair  
23 fraud if the person knowingly or with reason to know:

24 1. Enters into a consumer transaction for home repair and  
~~knowingly or with reason to know:~~

- 1 a. misrepresents a material fact relating to the terms of  
2 the consumer transaction or the preexisting or  
3 existing condition of any portion of the property  
4 involved, or creates or confirms an impression of the  
5 consumer which is false ~~and which the violator does~~  
6 ~~not believe to be true~~, or promises performance which  
7 the ~~violator~~ person does not intend to perform or  
8 knows will not be performed~~;~~, or  
9 b. uses or employs any deception, false pretense or false  
10 promises in order to induce, encourage or solicit such  
11 consumer to enter into any consumer transaction~~;~~, or  
12 c. requires payment for the home repair at a price which  
13 unreasonably exceeds the value of the services and  
14 materials needed for the home repair;

15 2. Damages the property of a person with the intent to enter  
16 into a consumer transaction for home repair; ~~or~~

17 3. Misrepresents himself or another to be an employee or agent  
18 of any unit of the federal, state, county, or municipal government,  
19 or an employee or agent of any public utility, with the intent to  
20 cause a person to enter into, with himself or another, any consumer  
21 transaction for home repair;

22 4. Misrepresents himself or another, in any way, to be  
23 licensed, insured or bonded with intent to cause a person to enter  
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1 into any consumer transaction for home repair, with himself or  
2 another; or

3 5. Exhibits or offers to the consumer any credential or  
4 detailed description of any license, insurance or bond that is  
5 false, invalid, or not recognized in this state as valid proof of  
6 licensure, insurance or bond with intent that such credential or  
7 description be relied upon as being valid in this state. For  
8 purposes of this paragraph, a "detailed description" includes, but  
9 is not limited to, statements of:

- 10 a. type of license,
- 11 b. name, mailing address or phone number of a licensing  
12 agency,
- 13 c. license number, if any,
- 14 d. issuance or expiration date of a license,
- 15 e. insurance or bonding policy number, if any, or
- 16 f. name, mailing address or phone number of an insurance  
17 or bonding company.

18 B. A person who places, or causes to be placed, any lien upon a  
19 property subject to a home repair contract while such person is or  
20 was in violation of any provision of this section, shall be, in  
21 addition to any other penalty provided by the Oklahoma Consumer  
22 Protection Act, punishable by imprisonment in the custody of the  
23 Department of Corrections for a term of not more than two (2) years,

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1 by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by  
2 both such fine and imprisonment.

3 C. Any lien filed against a property subject to home repairs  
4 while the person is or was in violation of the provisions of this  
5 section shall be null and void, with no legal effect, and the court  
6 shall issue an order to that effect and remove such lien.

7 SECTION 2. This act shall become effective November 1, 2010.

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