

THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 2010

House Bill No. 2278

HOUSE BILL NO. 2278 - By: GLENN AND SHELTON of the House and WYRICK of the Senate.

An Act relating to contracts; amending 15 O.S. 2001, Section 765.3, which relates to consumer protection; modifying acts constituting home repair fraud; defining term; providing for penalties; and providing an effective date.

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

1 SECTION 1. AMENDATORY 15 O.S. 2001, Section 765.3, is amended to read

2 as follows:

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

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

7 a. misrepresents a material fact relating to the terms of the consumer
8 transaction or the preexisting or existing condition of any portion of
9 the property involved, or creates or confirms an impression of the
10 consumer which is false ~~and which the violator does not believe to be~~
11 ~~true~~, or promises performance which the violator does not intend to
12 perform or knows will not be performed; or

1 b. uses or employs any deception, false pretense or false promises in order
2 to induce, encourage or solicit such consumer to enter into any
3 consumer transaction; ~~2~~ or

4 c. requires payment for the home repair at a price which unreasonably
5 exceeds the value of the services and materials needed for the home
6 repair;

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

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

13 4. Represents that the person, in any way, is licensed, insured, or bonded when
14 entering into a consumer transaction for home repair, and fails to provide in writing to
15 the consumer a detailed description of any and all licenses held by the person and
16 employees, as well as all information with regard to insurance and bonding coverage
17 prior to entering into the consumer transaction.

18 For purposes of this paragraph, a “detailed description” shall include:

19 a. the type of license,

20 b. name, mailing address and phone number of the licensing agency,

21 c. license number if any,

22 d. the issuance and expiration dates of each license,

- 1 e. insurance and bonding policy number, if any, and
2 f. the name, mailing address and phone number of the insurance and
3 bonding company.

4 B. Anyone in violation of this section who places, or causes to be placed, any lien
5 upon the property involved, in addition to other penalties as provided for in the
6 Oklahoma Consumer Protection Act, shall be punishable by incarceration in the custody
7 of the Department of Corrections for not more than two (2) years or by a fine not to
8 exceed Ten Thousand Dollars (\$10,000.00) or both such fine and incarceration. Any such
9 lien shall be considered null, with no legal effect, and the court may issue an order to
10 that effect.

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

12 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
13 FINANCIAL SERVICES, dated 02-10-10 - DO PASS, As Coauthored.