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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 427

AN ACT TO AMEND TITLES 6 AND 11 OF THE DELAWARE CODE RELATING TO HOME CONSTRUCTION CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 36, Title 6 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Subchapter IV. Home Improvement Protections

4 § 3684. Definitions.

5 As used in this subchapter:

6 (1) “Buyer” means a person who purchases home improvement services or merchandise from a home
7 improvement contractor.

8 (2) “Contractor” means all persons, firms, partnerships, joint ventures, limited liability companies, and
9 companies, their officers, representatives, agents, and employees, engaged in the trade or commerce of home
10 improvement.

11 (3) “Home” means a house, dwelling, condominium, townhouse, apartment, or such other residential building
12 or dwelling in which a person resides.

13 (4) “Home improvement” means as defined in § 916 of Title 11.

14 (5) “Home improvement contract” means as defined in § 916 of Title 11.

15 § 3685. Home improvement contracts.

16 (a) All home improvement contracts must be in writing.

17 (b) All buyers entering into home improvement contracts where the buyer is to pay more than \$500 shall have a
18 right to cancel a home improvement contract at any time prior to midnight of the third business day after the home
19 improvement contract is signed. A buyer who is 62 years of age or older, or an “adult who is impaired” as defined in § 3902
20 of Title 31, or a “person with a disability” as defined in § 3901(a)(2) of Title 12, shall have the right to cancel a home
21 improvement contract at any time prior to midnight of the fifth business day after the home improvement contract is signed.

22 (1) All contracts shall contain in 12-point, bold-faced type the following information and statement:

23 “YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO
24 MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE
25 ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT. IF YOU
26 ARE 62 YEARS OF AGE OR OLDER OR A PERSON WITH A DISABILITY, YOU MAY CANCEL THIS
27 TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH BUSINESS DAY AFTER THE
28 DATE OF THIS TRANSACTION.”

29 (2) All contracts shall append a form captioned “Notice of Cancellation,” that shall be attached to the home
30 improvement contract or receipt and easily detachable, and shall contain in 12-point, bold,-face type a cancellation
31 notice with the name of the contractor, the address of the contractor’s place of business, the date of the transaction and
32 the date by which the buyer may give the Notice of Cancellation.

33 (3) A contractor must return all deposits and other money paid to the contractor within 10 days of receiving a
34 Notice of Cancellation from the buyer.

35 (c) All buyers have the right to waive the cancellation period described in subsection (b). A waiver of the
36 cancellation is invalid unless all of the following are true:

37 (1) The waiver is in writing and is a separate document from the contract.

38 (2) The waiver is signed by the buyer and the contractor.

39 (3) The waiver includes the date the contractor will begin work under the contract.

40 (4) The waiver includes the following language in 10-point, bold-faced type:

41 “I, THE BUYER, HEREBY WAIVE THE STATUTORILY PROVIDED CANCELLATION PERIOD
42 FOR HOME IMPROVEMENT CONTRACTS. I REQUESTED THIS WAIVER BECAUSE I WANT THE
43 CONTRACTOR TO BEGIN WORK ON THE DATE INDICATED IN THIS WAIVER, AND THIS DATE IS
44 WITHIN THE CANCELLATION PERIOD. I REQUESTED THIS WAIVER IN RELIANCE ON THE
45 CONTRACTOR’S EXPRESS REPRESENTATION THAT WORK WILL BEGIN ON THE DATE STATED
46 IN THIS WAIVER.”

47 (d) A deposit for a home improvement contract may not exceed 10% of the contract price unless the contractor
48 requires amounts in excess of 10% to purchase materials or professional services without which the contractor cannot
49 reasonably begin the project, in which case the deposit is limited to 33% of the cost of the materials and professional
50 services needed to commence the contracted work.

51 (e) If payments, other than a deposit, are to be made before the project is completed, the details of these payments
52 shall be included in a payment schedule in the home improvement contract, which schedule shall set forth the amount of

53 work, materials, or services that are to be performed for each such payment. Any changes to such schedule shall be
54 reflected in an amendment to the home improvement contract.

55 (f) A contractor must apply for all permits necessary to do the work contemplated by a home improvement
56 contract, if any, by the following dates:

57 (1) Thirty days after 50% of any deposit due under the home improvement contract is paid.

58 (2) If no deposit is due, then within 30 days after the home improvement contract is signed or by a mutually
59 agreed upon date set forth in the home improvement contract.

60 (g) A contractor must start the work contemplated by a home improvement contract by the date set forth in such
61 home improvement contract unless any of the following applies:

62 (1) The home improvement is delayed by events beyond the contractor's control and the contractor has
63 notified the buyer in writing of the delay, the specific reason for the delay, and a new start date that will replace the
64 date set forth in the contract.

65 (2) The buyer has agreed in writing to a later date.

66 (h) If the contractor cannot start the work by the date set forth in the home improvement contract and no condition
67 set forth in subsection (g) of this section applies, the buyer shall be entitled to terminate the home improvement contract
68 and obtain a refund of all payments made under the contract.

69 (i) A contractor shall be prohibited from the following:

70 (1) Including in a home improvement contract any confession of judgment or any waiver of any of the rights
71 to which the buyer is entitled under this subchapter.

72 (2) Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance
73 company or other third party prior to midnight of the fifth business day following the day the home improvement
74 contract was signed.

75 § 3686. Enforcement.

76 (a) Any violation of § 3685 of this subchapter shall be deemed an unlawful practice under § 2513 of this title and a
77 violation of subchapter II of Chapter 25 of this title.

78 (b) The remedies and penalties provided for in this section are not exclusive and shall be in addition to any other
79 procedures, rights or remedies which exist with respect to any other provisions of law including, state and federal criminal
80 prosecutions and common law statutory actions.

81 (c) Pursuant to § 2521 of Title 29, nothing in this subchapter is intended to conflict with or supersede regulations
82 issued prior to this subchapter's effective date.

83 § 3687. Attorneys' fees.

84 (a) In any action brought in connection with a home improvement contract pursuant to § 2525 of this title where a
85 party to that home improvement contract is found to have engaged in a wilful violation of § 2513 of this title, the court shall
86 award to the prevailing party costs, expenses, and reasonable attorneys' fees incurred in connection with bringing the
87 action.

88 (b) For purposes of this section, "wilful" means as set forth in § 2522(b) of this title.

89 Section 2. Amend § 4404, Title 6 of the Delaware Code by making deletions as shown by strike through and
90 insertions as shown by underline as follows:

91 § 4404. Unlawful practices.

92 Section 2513(b)(2) of this title notwithstanding, in connection with any door-to-door sale, it is an unlawful practice
93 within the meaning of § 2513 of this title for any seller to:

94 (1) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at
95 the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales
96 presentation and which shows the date of the transaction and contains the name and address of the seller, and in
97 immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the
98 receipt if a contract is not used and in bold-faced type of a minimum size of 10-point, a statement in substantially the
99 ~~following form:~~ same form set forth in § 3685(b)(1) of this title.

100 ~~“YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR~~
101 ~~TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE~~
102 ~~THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.”~~

103 Beginning 1 year after the effective date of this section, such statement shall be printed in an ink of a
104 conspicuous color other than that used for the rest of the contract and/or receipt.

105 Section 3. Amend § 916, Title 11 of the Delaware Code by making deletions as shown by strike through and
106 insertions as shown by underline as follows:

107 § 916. Home improvement fraud; class B felony; class D felony; class F felony; class G felony, class A
108 misdemeanor.

109 (a) For the purpose of this section, the following definitions shall apply:

110 (1) “Contract price” means the total price agreed upon under a home improvement contract.

111 (2)a. “Debarment” shall refer to the prohibition against any home improvement contractor who has received 2
112 or more qualifying convictions, at least 1 of which was entered after January 1, 2025, from any of the following:

- 113 1. Operating a business engaged in home improvement.
114 2. Soliciting for a business engaged in home improvement.
115 3. Employing individuals to engage in home improvement.
116 4. Having an ownership interest in a business engaged in home improvement.

117 b. Debarment shall not preclude such an individual from being employed by a business which engages in
118 home improvement, provided that individual does not engage in solicitation of work for the business.

119 (2) (3) “Home improvement” means any alteration, repair, addition, modification or improvement to any
120 dwelling or the property on which it is situated, including but not limited to the construction, painting or coating,
121 installation, replacement or repair of driveways, sidewalks, swimming pools, unattached structures, porches, kitchens,
122 bathrooms, chimneys, fireplaces, stoves, air conditioning or heating systems, hot water heaters, water treatment
123 systems, electrical wiring or systems, plumbing fixtures or systems, doors or windows, roofs, gutters, downspouts and
124 siding.

125 (3) (4) A “home improvement contract” is any agreement, whether written or oral, whereby a person offers or
126 agrees to provide home improvements in exchange for payment in any form, regardless of whether any such payments
127 have been made, and includes all agreements for labor, services, and materials to be furnished and performed under the
128 contract.

129 (4) (5) A “material fact” is a fact that a reasonable person would consider important when purchasing a home
130 improvement of the variety being offered.

131 (6) A “qualifying conviction” means a conviction for home improvement fraud or new home construction
132 fraud or any comparable offense under the laws of any other state, the United States, or any territory of the United
133 States.

134 (d) (1) Except where the person who purchased the home improvement is 62 years of age or older, or an “adult
135 who is impaired” as defined in § 3902 of Title 31, or a “person with a disability” as defined in § 3901(a)(2) of Title 12,
136 home improvement fraud is a class A misdemeanor, unless the loss to the person who purchased the home improvement is
137 \$1500 or more, in which case it is a class G felony. A second conviction of home improvement fraud is a class F felony. A
138 third conviction of home improvement fraud is a Class E felony. A fourth conviction of home improvement fraud is a
139 Class D felony. A fifth conviction of home improvement fraud is a Class C felony. Any conviction of home improvement
140 fraud occurring after the fifth conviction of home improvement fraud shall be a Class B felony. Any individual with 2 or
141 more convictions for home improvement fraud, at least 1 of which was entered after January 1, 2025, shall be subject to

142 debarment. For purposes of debarment, the convictions must not arise from the same incident or series of incidents which
143 led to the home improvement conviction.

144 (2) Where the person who purchased the home improvement is 62 years of age or older, or an “adult who is
145 impaired” as defined in § 3902 of Title 31, or a “person with a disability” as defined in § 3901(a)(2) of Title 12, home
146 improvement fraud is a class G felony, unless the loss to the person who purchased the home improvement is \$1500 or
147 more, in which case it is a class F felony.

148 (3) Notwithstanding paragraphs (d)(1) and (2) of this section:

149 a. Where the loss to the person who purchased the home improvement is at least \$50,000 but less than
150 \$100,000, home improvement fraud is a class D felony.

151 b. Where the loss to the person who purchased the home improvement is at least \$100,000, home
152 improvement fraud is a class B felony.

153 (4) Any individual who is subject to debarment under this statute but nevertheless engages in the activity
154 prohibited pursuant to the debarment shall be subject to a Class D felony regardless of whether home improvement
155 fraud has occurred on existing construction projects.

156 (5) Any individual who is convicted of home improvement fraud but has not complied with the requirements
157 of Chapter 36 of Title 19 shall be subject to a sentencing enhancement as follows:

158 a. If an individual is convicted of a Class A misdemeanor of home improvement fraud and it is proven
159 that the individual (or the business through which the individual committed home improvement fraud) did not
160 comply with the requirements of Chapter 36 of Title 19, that individual shall, upon a conviction of that
161 misdemeanor, be sentenced as if convicted of a Class G felony under § 4205(b)(7) of this title.

162 b. If an individual is convicted of a Class G felony of home improvement fraud and it is proven that the
163 individual (or the business through which the individual committed home improvement fraud) did not comply with
164 the requirements of Chapter 36 of Title 19, that individual shall, upon a conviction of that felony, be sentenced as a
165 Class F felony under § 4205(b)(6) of this title.

166 c. If an individual is convicted of a Class F felony of home improvement fraud and it is proven that the
167 individual (or the business through which the individual committed home improvement fraud) did not comply with
168 the requirements of Chapter 36 of Title 19, that individual shall, upon a conviction of that felony, be sentenced as
169 if convicted of a Class E felony under § 4205(b)(5) of this title.

170 d. If an individual is convicted of a Class E felony of home improvement fraud and it is proven that the
171 individual (or the business through which the individual committed home improvement fraud) did not comply with

172 the requirements of Chapter 36 of Title 19, that individual shall, upon a conviction of that felony, be sentenced as
173 if convicted of a Class D felony under § 4205(b)(4) of this title.

174 e. If an individual is convicted of a Class D felony of home improvement fraud and it is proven that the
175 individual (or the business through which the individual committed home improvement fraud) did not comply with
176 the requirements of Chapter 36 of Title 19, that individual shall, upon a conviction of that felony, be sentenced as
177 if convicted of a Class C felony under § 4205(b)(3) of this title.

178 f. If an individual is convicted of a Class C felony of home improvement fraud and it is proven that the
179 individual (or the business through which the individual committed home improvement fraud) did not comply with
180 the requirements of Chapter 36 of Title 19, that individual shall, upon a conviction of that felony, be sentenced as
181 if convicted of a Class B felony under § 4205(b)(2) of this title.

SYNOPSIS

This Act protects consumers by regulating home improvement contracts. Among other things, this Act provides the buyer with a right to cancel home improvement contracts within 3 days (5 days for those over the age of 62 or with a disability); limits contract deposits and material deposits; and time periods in which construction must begin. It also prohibits confessions of judgments and hasty debt transfers. Where the court finds a party to a home improvement contract wilfully violates a provision of this new subchapter, the court must award to the prevailing party costs, expenses, and reasonable attorneys' fees.

This Act also creates a requirement that individuals convicted of 2 or more offenses of home improvement fraud after January 1, 2025, must be subject to debarment. This debarment will preclude these individuals from operating a business which engages in home improvement services or from employing other individuals to engage in home improvement services. Debarred individuals may work for a company which engages in home improvement themselves, so long as they are not in control of the company in question. This bill also enhances penalties for home improvement fraud for those with prior convictions for home improvement fraud; creates a new Class D felony for debarred individuals who operate companies or employ other individuals which engage in home improvement; and creates enhanced penalties for individuals who engage in home improvement services while operating companies which are not registered with the Delaware Department of Labor's Contractor Registry.