

HOUSE BILL No. 2009

By Representative Kinzer

1-13

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to home improvement fraud.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Home improvement fraud is causing an owner to
6 enter into a home improvement contract by:

7 (1) Knowingly using or employing deception, false pretense or false
8 promise;

9 (2) knowingly creating or reinforcing a false impression regarding
10 the condition of the owner's dwelling or property;

11 (3) knowingly making a false statement of material fact or omitting
12 a material fact relating to the home improvement contract;

13 (4) damaging property of the owner with the intent to induce such
14 owner to enter into a home improvement contract or extend such contract;

15 (5) receiving money for the purpose of obtaining or paying for
16 services, labor, materials or equipment and failing to apply such money
17 for such purpose as evidenced by:

18 (A) Failing to substantially complete the home improvement for
19 which such funds were provided; or

20 (B) diverting such funds to a use other than such purpose for which
21 the funds were received.

22 (b) (1) Home improvement fraud as described in subsections (a)(1)
23 through (a)(5) is a:

24 (A) Severity level 5, nonperson felony if the total of any money paid
25 by such owner and any damages caused by such contractor is \$100,000 or
26 more;

27 (B) severity level 7, nonperson felony if the total of any money paid
28 by such owner and any damages caused by such contractor is at least
29 \$25,000 but less than \$100,000.

30 (C) severity level 9, nonperson felony if the total of any money paid
31 by such owner and any damages caused by such contractor is at least
32 \$1,000 but less than \$25,000; and

33 (D) a class A nonperson misdemeanor if the total of any money paid
34 by such owner and any damages caused by such contractor is less than
35 \$1,000.

36 (c) As used in this section:

1 (1) "Contract price" means the total price agreed upon under a home
2 improvement contract;

3 (2) "contractor" means an individual, partnership, limited liability
4 company or corporation;

5 (3) (A) "home improvement" means any repair, replacement,
6 remodeling, installation, conversion, modernization, improvement made
7 to, in or upon, any immovable or moveable property or to any land or
8 building or that portion thereof which is used or designed to be used as a
9 private residence or residential rental property, including but not limited
10 to:

11 (i) Waterproofing;

12 (ii) exterior siding, awnings, gutters and downspouts;

13 (iii) decks, patios, sunrooms, garages, carports and additional rooms;

14 (iv) storm or replacement windows and doors;

15 (v) roofs;

16 (vi) driveways and walkways;

17 (vii) kitchens and bathrooms;

18 (viii) masonry;

19 (ix) fence installations;

20 (x) chimney maintenance;

21 (xi) exterior painting;

22 (xii) landscaping, gardening and arboriculture;

23 (xiii) tile setting;

24 (xiv) sandblasting;

25 (xv) swimming pools; and

26 (xvi) other similar improvements;

27 (B) "home improvement" does not include construction of a new
28 home, the sale of goods or services furnished for commercial or business
29 use or resale, or any work performed without compensation by the owner
30 on his own private residence or residential rental property;

31 (4) "Home improvement contract" means an oral or written
32 agreement between a contractor and an owner for the performance of
33 home improvement by the contractor or another in exchange for money,
34 whether or not such money is paid;

35 (5) "material fact" means a fact that a reasonable person would
36 consider important when purchasing a home improvement of the variety
37 being offered;

38 (6) "owner" means a person who owns or resides in a private
39 residence or residential rental property;

40 (7) "private residence or home" means a single-family or multi-
41 family dwelling consisting of not more than four attached units; and

42 (8) "residential rental property" means a single-family or multi-
43 family dwelling consisting of not more than four attached units that is not

1 owner-occupied.

2 Sec. 2. This act shall take effect and be in force from and after its

3 publication in the statute book.