

2 **ESSB 6124** - H COMM AMD **ADOPTED 3-3-94**

3 By Committee on Commerce & Labor

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that many homeowners
8 are solicited by siding and roofing contractors to purchase home
9 improvements. Some contractors misrepresent the financing terms or the
10 cost of the improvements, preventing the homeowner from making an
11 informed decision about whether the improvements are affordable. The
12 result is that many homeowners face financial hardship including the
13 loss of their homes through foreclosure. The legislature declares that
14 this is a matter of public interest. It is the intent of the
15 legislature to establish rules of business practice for roofing and
16 siding contractors to promote honesty and fair dealing with homeowners.

17 NEW SECTION. **Sec. 2.** Unless the context clearly requires
18 otherwise, the definitions in this section apply throughout this
19 chapter.

20 (1) "Roofing or siding contract" means an agreement between a
21 roofing or siding contractor or salesperson and a homeowner that
22 includes, in part, an agreement to install, repair or replace
23 residential roofing or siding for a total cost including labor and
24 materials in excess of one thousand dollars.

25 This chapter does not apply to the following contracts:

26 (a) Residential remodel or repair contracts where the cost
27 specified for roofing or siding is less than twenty percent of the
28 total contract price;

29 (b) Contracts where the roofing or siding is part of a contract to
30 build a new dwelling or an addition that provides additional living
31 space;

32 (c) Contracts for emergency repairs made necessary by a natural
33 disaster such as an earthquake, wind storm, or hurricane, or after a
34 fire in the dwelling;

35 (d) Homes being prepared for resale; or

1 (e) Roofing or siding contracts in which the homeowner was not
2 directly solicited by a roofing or siding contractor or salesperson.

3 (2) "Roofing or siding contractor" means a person who owns or
4 operates a contracting business that purports to install, repair, or
5 replace or subcontracts to install, repair, or replace residential
6 roofing or siding.

7 (3) "Roofing or siding salesperson" means a person who solicits,
8 negotiates, executes, or otherwise endeavors to procure a contract with
9 a homeowner to install, repair, or replace residential roofing or
10 siding on behalf of a roofing or siding contractor.

11 (4) "Residential roofing or siding" means roofing or siding
12 installation, repair or replacement for an existing single-family
13 dwelling or multiple family dwelling of four or less units, provided
14 that this does not apply to a residence under construction.

15 (5) "Person" includes an individual, corporation, company,
16 partnership, joint venture, or a business entity.

17 (6) "Siding" means material used to cover the exterior walls of a
18 residential dwelling, excluding paint application.

19 (7) "Solicit" means to initiate contact with the homeowner, either
20 in person or by telephone, for the sole purpose of attempting to sell
21 residential roofing or siding contracts as covered under this chapter,
22 where the homeowner has expressed no previous interest in purchasing or
23 obtaining information regarding residential roofing or siding.
24 "Solicit" also means the use of promotional fliers, mailings, or
25 newspaper advertisements which offer a reward in the form of cash,
26 property, or services merely as an incentive to contact the roofing or
27 siding contractor or salesperson. "Solicit" does not mean:

28 (a) Calls made in response to a request or inquiry by the called
29 party; or

30 (b) Calls made to homeowners who have prior business or personal
31 contact with the residential roofing or siding contractor or
32 salesperson.

33 NEW SECTION. **Sec. 3.** A roofing or siding contract shall be in
34 writing. A copy of the contract shall be given to the homeowner at the
35 time the homeowner signs the contract. The contract shall be typed or
36 printed legibly and contain the following provisions:

37 (1) An itemized list of all work to be performed;

38 (2) The grade, quality, or brand name of materials to be used;

1 (3) A statement as to whether all or part of the work is to be
2 subcontracted to another person;

3 (4) The contract shall require the homeowner to disclose whether he
4 or she intends to obtain a loan in order to pay for all or part of the
5 amount due under the contract;

6 (5) If the customer indicates that he or she intends to obtain a
7 loan to pay for a portion of the roofing or siding contract, the
8 homeowner shall have the right to rescind the contract within three
9 business days of receiving truth-in-lending disclosures or three
10 business days of receiving written notification that the loan
11 application was denied, whichever date is later; and

12 (6) The contract shall provide the following notice in ten-point
13 boldface type in capital letters:

14 "CUSTOMER'S RIGHT TO CANCEL

15 IF YOU HAVE INDICATED IN THIS CONTRACT THAT YOU INTEND TO
16 OBTAIN A LOAN TO PAY FOR ALL OR PART OF THE WORK SPECIFIED IN
17 THE CONTRACT, YOU HAVE THE RIGHT TO CHANGE YOUR MIND AND CANCEL
18 THIS CONTRACT WITHIN THREE DAYS OF THE DATE WHEN THE LENDER
19 PROVIDES YOU WITH YOUR TRUTH-IN-LENDING DISCLOSURE STATEMENT OR
20 THE DATE WHEN YOU RECEIVE WRITTEN NOTIFICATION THAT YOUR LOAN
21 WAS DENIED.

22 BE SURE THAT ALL PROMISES MADE BY YOUR CONTRACTOR ARE PUT IN
23 WRITING BEFORE YOU SIGN THIS CONTRACT."

24 NEW SECTION. **Sec. 4.** If the customer indicates that he or she
25 intends to obtain a loan to pay for all or part of the cost of the
26 roofing or siding contract, the roofing or siding contractor shall not
27 begin work until after the homeowner's rescission rights provided in
28 section 3(6) of this act have expired. If the roofing or siding
29 contractor commences work under the contract before the homeowner's
30 rescission rights have expired, the roofing or siding contractor or
31 salesperson shall be prohibited from enforcing terms of the contract,
32 including claims for labor or materials, in a court of law and shall
33 terminate any security interest or statutory lien created under the
34 transaction within twenty days of receiving written rescission of the
35 contract from the customer.

1 NEW SECTION. **Sec. 5.** A person who purchases or is otherwise
2 assigned a roofing or siding contract shall be subject to all claims
3 and defenses with respect to the contract that the homeowner could
4 assert against the siding or roofing contractor or salesperson. A
5 person who sells or otherwise assigns a roofing or siding contract
6 shall include a prominent notice of the potential liability under this
7 section.

8 NEW SECTION. **Sec. 6.** The legislature finds and declares that a
9 violation of this chapter substantially affects the public interest and
10 is an unfair and deceptive act or practice and unfair method of
11 competition in the conduct of trade or commerce as set forth under
12 chapter 19.86 RCW.

13 NEW SECTION. **Sec. 7.** A roofing or siding contractor or
14 salesperson who fails to comply with the requirements of this chapter
15 shall be liable to the homeowner for any actual damages sustained by
16 the person as a result of the failure. Nothing in this section shall
17 limit any cause of action or remedy available under section 6 of this
18 act or chapter 19.86 RCW.

19 NEW SECTION. **Sec. 8.** Sections 2 through 7 of this act shall
20 constitute a new chapter in Title 19 RCW."

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