

HOUSE BILL REPORT

ESSB 6124

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to the protection of a homeowner's equity by prohibiting certain unfair business practices.

Brief Description: Protecting homeowners' equity.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice, Newhouse, Fraser, Haugen, Winsley, Franklin and Oke).

Brief History:

Reported by House Committee on:
Commerce & Labor, February 25, 1994, DPA.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 6 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Chandler, Assistant Ranking Minority Member; Conway; King and Veloria.

Minority Report: Do not pass. Signed by 3 members: Representatives Lisk, Ranking Minority Member; Horn and Springer.

Staff: Jim Kelley (786-7166).

Background: Roofing and siding contractors are regulated by the same laws as are other contractors. In some cases, roofing and siding contractors solicit business by door to door sales or other active means. Sometimes at the request of the contractor, work is begun before the financing is arranged and truth-in-lending disclosures are made.

Summary of Amended Bill: A roofing or siding contract must be in legible written form and a copy provided to the homeowner at the time of signing. Work must be itemized and grade or quality of materials designated. The contract must include a statement as to whether all or part of the work is to be subcontracted.

New construction, emergency repairs, contracts involving only incidental roofing and siding, homes being prepared for

resale, and contracts in which the homeowner was not directly solicited are excluded from coverage of the act.

Solicit is defined as initiating contact with the homeowner in person or by telephone where the homeowner has expressed no previous interest in purchasing or obtaining information regarding roofing or siding. Solicit also means the use of advertisements which offer a reward in the form of cash, property, or services as an incentive.

Roofing and siding contracts must require the homeowner to disclose whether he or she intends to obtain a loan for part or all of the payment due under the contract. If the customer indicates an intent to obtain a loan, the customer has a right to rescind the contract within three business days of receiving truth-in-lending disclosures, or three days of receiving notification that the loan application was denied, whichever is later.

If a customer indicates an intent to obtain a loan to pay for the work, the roofing or siding contractor shall not begin work until after the homeowner's rescission rights have expired. If work is commenced prior to this time, the contractor is prohibited from enforcing the terms of the contract and shall terminate any security interest or statutory lien created under the transaction within 20 days. The same provisions apply to assignees of any roofing or siding contract.

A violation of this act is a violation of the Consumer Protection Act. In addition to any Consumer Protection Act remedies, the consumer is entitled to actual damages.

Amended Bill Compared to Engrossed Substitute Bill: The amended bill exempts additional types of contracts from the coverage of the chapter. The new exemptions are for: (1) homes being prepared for resale; and (2) contracts not initially solicited by the contractor or salesperson. The amended bill also clarifies that the definition of "siding" excludes paint application.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are many examples of senior citizen homeowners being approached by roofing and siding contractors to do repairs that the owner cannot afford. The contractors tell the owners that they will arrange financing and then immediately begin work. A number of people have lost their homes because they could not afford the large

payments on these loans. These contractors follow the letter of the law, but the law does not protect homeowners adequately.

Testimony Against: The intent of the bill is fine, but it attacks the problem in the wrong way. This bill would hinder the honest business practices of many reputable contractors. The biggest problem is the large number of unregistered contractors. Protections are available to the consumers already, but they merely have to take some initiative to look into the history and reputation of the contractor they hire.

Witnesses: (In favor) Evan Iverson, Washington State Senior Citizens Lobby; and Barbara Isenhauer, Evergreen Legal Services. (Opposed) Dick Box, Doug Vieselmeyer and Brian Minnich, Building Industry Association of Washington.