

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6124

53rd Legislature
1994 Regular Session

Passed by the Senate March 10, 1994
YEAS 44 NAYS 2

President of the Senate

Passed by the House March 9, 1994
YEAS 95 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6124** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6124

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

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

Read first time 02/04/94.

1 AN ACT Relating to the protection of a homeowner's equity by
2 prohibiting certain unfair business practices; adding a new chapter to
3 Title 19 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

6 This chapter does not apply to the following contracts:

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

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

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

16 (d) Homes being prepared for resale; or

17 (e) Roofing or siding contracts in which the homeowner was not
18 directly solicited by a roofing or siding contractor or salesperson.
19 If a roofing or siding contractor or roofing or siding salesperson
20 generally does business by soliciting, it shall be a rebuttable
21 presumption that any roofing or siding contract entered into with a
22 homeowner shall have been the result of a solicitation.

23 (2) "Roofing or siding contractor" means a person who owns or
24 operates a contracting business that purports to install, repair, or
25 replace or subcontracts to install, repair, or replace residential
26 roofing or siding.

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

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

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

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

1 (7)(a) "Solicit" means to initiate contact with the homeowner for
2 the purpose of selling or installing roofing or siding by one of the
3 following methods:

4 (i) Door-to-door contact;

5 (ii) Telephone contact;

6 (iii) Flyers left at a residence; or

7 (iv) Other promotional advertisements which offer gifts, cash, or
8 services if the homeowner contacts the roofing or siding contractor or
9 salesperson, except for newspaper advertisements which offer a seasonal
10 discount.

11 (b) "Solicit" does not include:

12 (i) Calls made in response to a request or inquiry by the
13 homeowner; or

14 (ii) Calls made to homeowners who have prior business or personal
15 contact with the residential roofing or siding contractor or
16 salesperson.

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

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

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

23 (3) The dollar amount of the contract;

24 (4) The name and address of the roofing or siding salesperson;

25 (5) The name, address, and contractor's registration number of the
26 roofing or siding contractor;

27 (6) A statement as to whether all or part of the work is to be
28 subcontracted to another person;

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

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

1 (9) The contract shall provide the following notice in ten-point
2 boldface type in capital letters:

3 "CUSTOMER'S RIGHT TO CANCEL

4 IF YOU HAVE INDICATED IN THIS CONTRACT THAT YOU INTEND TO
5 OBTAIN A LOAN TO PAY FOR ALL OR PART OF THE WORK SPECIFIED IN
6 THE CONTRACT, YOU HAVE THE RIGHT TO CHANGE YOUR MIND AND CANCEL
7 THIS CONTRACT WITHIN THREE DAYS OF THE DATE WHEN THE LENDER
8 PROVIDES YOU WITH YOUR TRUTH-IN-LENDING DISCLOSURE STATEMENT OR
9 THE DATE WHEN YOU RECEIVE WRITTEN NOTIFICATION THAT YOUR LOAN
10 WAS DENIED.

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

13 NEW SECTION. **Sec. 4.** If the customer indicates that he or she
14 intends to obtain a loan to pay for all or part of the cost of the
15 roofing or siding contract, the roofing or siding contractor shall not
16 begin work until after the homeowner's rescission rights provided in
17 section 3(9) of this act have expired. If the roofing or siding
18 contractor commences work under the contract before the homeowner's
19 rescission rights have expired, the roofing or siding contractor or
20 salesperson shall be prohibited from enforcing terms of the contract,
21 including claims for labor or materials, in a court of law and shall
22 terminate any security interest or statutory lien created under the
23 transaction within twenty days of receiving written rescission of the
24 contract from the customer.

25 NEW SECTION. **Sec. 5.** A person who purchases or is otherwise
26 assigned a roofing or siding contract shall be subject to all claims
27 and defenses with respect to the contract that the homeowner could
28 assert against the siding or roofing contractor or salesperson. A
29 person who sells or otherwise assigns a roofing or siding contract
30 shall include a prominent notice of the potential liability under this
31 section.

32 NEW SECTION. **Sec. 6.** The legislature finds and declares that a
33 violation of this chapter substantially affects the public interest and

1 is an unfair and deceptive act or practice and unfair method of
2 competition in the conduct of trade or commerce as set forth under
3 chapter 19.86 RCW.

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

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

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