

HOUSE BILL No. 2065

By Committee on Corrections and Juvenile Justice

1-23

1 AN ACT concerning crimes and punishment; creating the crime of home
2 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:

6 (1) Receiving money for the purpose of obtaining or paying for
7 services, labor, materials or equipment and failing to apply such money for
8 such purpose as evidenced by failing to substantially complete the home
9 improvement for which such funds were provided; or

10 (2) causing an owner to enter into a home improvement contract by:

11 (A) Knowingly using or employing deception, false pretense or false
12 promise;

13 (B) knowingly creating or reinforcing a false impression regarding
14 the condition of the owner's dwelling or property;

15 (C) knowingly making a false statement of material fact or omitting a
16 material fact relating to the home improvement contract; or

17 (D) damaging property of the owner with the intent to induce such
18 owner to enter into a home improvement contract or extend such contract.

19 (b) Home improvement fraud as described in subsections (a)(1) and
20 (a)(2) is a:

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

24 (B) severity level 7, nonperson felony if the total of any money paid
25 by such owner and any damages caused by such contractor is at least
26 \$25,000 but less than \$100,000;

27 (C) severity level 9, nonperson felony if the total of any money paid
28 by such owner and any damages caused by such contractor is at least
29 \$1,000 but less than \$25,000; and

30 (D) a class A nonperson misdemeanor if the total of any money paid
31 by such owner and any damages caused by such contractor is less than
32 \$1,000.

33 (c) As used in this section:

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

36 (2) "contractor" means an individual, partnership, limited liability

1 company or corporation;

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

- 8 (i) Waterproofing;
- 9 (ii) exterior siding, awnings, gutters and downspouts;
- 10 (iii) decks, patios, sunrooms, garages, carports and additional rooms;
- 11 (iv) storm or replacement windows and doors;
- 12 (v) roofs;
- 13 (vi) driveways and walkways;
- 14 (vii) kitchens and bathrooms;
- 15 (viii) masonry;
- 16 (ix) fence installations;
- 17 (x) chimney maintenance;
- 18 (xi) exterior painting;
- 19 (xii) landscaping, gardening and arboriculture;
- 20 (xiii) tile setting;
- 21 (xiv) sandblasting;
- 22 (xv) swimming pools; and
- 23 (xvi) other similar improvements; and

24 (B) "home improvement" does not include construction of a new
25 home, the sale of goods or services furnished for commercial or business
26 use or resale, or any work performed without compensation by the owner
27 on such owner's private residence or residential rental property;

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

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

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

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

39 (8) "residential rental property" means a single-family or multi-family
40 dwelling consisting of not more than four attached units that is not owner-
41 occupied; and

42 (9) "substantially complete" means the owner realizes a material
43 benefit from the home improvement contract.

1 Sec. 2. This act shall take effect and be in force from and after its
2 publication in the statute book.