

SENATE BILL NO. 942

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOSLEY.

3443S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 324, RSMo, by adding thereto twenty-one new sections relating to the statewide licensure of home improvement contractors and salespersons, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto
2 twenty-one new sections, to be known as sections 324.1200,
3 324.1202, 324.1204, 324.1206, 324.1208, 324.1210, 324.1212,
4 324.1214, 324.1216, 324.1218, 324.1220, 324.1222, 324.1226,
5 324.1228, 324.1230, 324.1232, 324.1234, 324.1236, 324.1238,
6 324.1240, and 324.1242, to read as follows:

**324.1200. As used in sections 324.1200 to 324.1242,
2 the following terms shall mean:**

- 3 (1) "Board", the Missouri board of home improvement
4 contractors;
- 5 (2) "Building", any structure containing no more than
6 four residences or dwelling units;
- 7 (3) "Contractor", any person or salesperson, other
8 than a bona fide employee of the owner, who owns, operates,
9 maintains, conducts, controls, or transacts a home
10 improvement business and who undertakes, offers to
11 undertake, or agrees to perform any home improvement or
12 solicits any contract therefor, whether or not such person
13 is licensed or subject to the licensing requirements of
14 sections 324.1200 to 324.1242, and whether or not such

15 person is a prime contractor or subcontractor with respect
16 to the owner;

17 (4) "Home improvement", the construction, repair,
18 replacement, remodeling, alteration, conversion,
19 rehabilitation, renovation, modernization, improvement, or
20 addition to any land or building, or that portion thereof
21 which is used or designed to be used as a residence or
22 dwelling place, including but not limited to the
23 construction, erection, replacement, or improvement of
24 driveways, swimming pools, terraces, patios, landscaping,
25 fences, porches, garages, fallout shelters, basements, and
26 other improvements to structures or upon land which is
27 adjacent to a dwelling house. Without regard to the extent
28 of affixation, "home improvement" shall also include the
29 installation of central heating or air conditioning systems,
30 central vacuum cleaning systems, storm windows, awnings, or
31 communication systems. "Home improvement" shall not include:

32 (a) The construction of a new home or building or work
33 done by a contractor in compliance with a guarantee of
34 completion of a new building project;

35 (b) The sale of goods or materials by a seller who
36 neither arranges to perform nor performs directly or
37 indirectly any work or labor in connection with the
38 installation of or application of the goods or materials;

39 (c) Work upon residences owned by or controlled by the
40 state or any political subdivision thereof; or

41 (d) Painting or decorating of a building, residence,
42 home, or apartment, when not incidental or related to home
43 improvement work;

44 (5) "Home improvement contract", an agreement, whether
45 oral, written, or contained in one or more documents,
46 between a contractor and an owner or tenant, regardless of

47 the number of residences or dwelling units contained in the
48 building in which the tenant resides, provided said work is
49 to be performed in, to or upon the residence or dwelling
50 unit of such tenant, for the performance of home
51 improvement, including all labor, services and materials to
52 be furnished and performed thereunder;

53 (6) "Home improvement establishment", any shop,
54 establishment, place, or premises where the home improvement
55 business is transacted or carried on;

56 (7) "Licensee", a person licensed to engage in the
57 home improvement business;

58 (8) "Owner", any homeowner, cooperative shareholder,
59 condominium unit owner, tenant, or any other person who
60 orders, contracts for, purchases, or is entitled to the home
61 improvement services of a contractor pursuant to a home
62 improvement contract;

63 (9) "Person", an individual, firm, company,
64 salesperson, partnership, corporation, trade group, or
65 association;

66 (10) "Salesperson", any individual who negotiates or
67 offers to negotiate a home improvement contract with an
68 owner, or solicits or otherwise endeavors to procure in
69 person a home improvement contract from an owner.

324.1202. 1. The "Missouri Board of Home Improvement
2 Contractors" is hereby established and shall consist of
3 seven members. The board shall have the functions, powers,
4 and duties prescribed in sections 324.1200 to 324.1242.

5 2. Each member of the board shall at the time of his
6 or her appointment be a citizen of the United States of
7 America and a resident of this state for at least one year.

8 3. Members of the board shall be chosen by the
9 governor with the advice and consent of the senate from

10 lists submitted by the director of the division of
11 professional registration or as otherwise determined by the
12 governor. To be considered by the director of the division
13 of professional registration, the list shall be submitted at
14 least ninety days prior to the expiration of the term of the
15 board member or as soon as feasible after a vacancy on the
16 board occurs.

17 4. The term of office of each board member appointed
18 shall be five years. Vacancies shall be filled by the
19 governor for the remainder of the unexpired term. The
20 initial appointments to the board shall be three members for
21 terms of one year, two members for terms of three years, and
22 two members for terms of five years. No person shall serve
23 consecutively for more than two terms or eleven years,
24 whichever is less; except that a member may hold office
25 until his or her successor is appointed and qualified. Any
26 member who has served two complete consecutive terms shall
27 be ineligible to be reappointed until one year has lapsed.
28 No member whose term has been terminated for any reason,
29 other than the term's expiration, shall be eligible for
30 reappointment until the lapse of one year. An appointment
31 to fill an unexpired term shall not be considered a complete
32 term.

33 5. The governor may remove any member of the board for
34 misconduct, incompetency, or neglect of official duties
35 after giving the member written notice of the charges and an
36 opportunity to be heard.

37 6. The board shall have the power:

38 (1) To appoint an adequate number of assistants,
39 inspectors, and other employees as may be necessary to carry
40 out the provisions of sections 324.1200 to 324.1242, to
41 prescribe the duties of such employees, and to fix the

42 compensation of such employees within the amount
43 appropriated therefor;

44 (2) To examine the qualifications and fitness of
45 applicants for licenses pursuant to sections 324.1200 to
46 324.1242;

47 (3) To keep record of all licenses issued, suspended,
48 or revoked;

49 (4) To require reasonable information of an applicant
50 or licensee, and to require the production of books of
51 accounts, financial statements, contracts, or other records
52 which relate to home improvement activities, qualifications,
53 or compliance with sections 324.1200 to 324.1242 by the
54 licensee; and

55 (5) Upon finding reasonable cause that any licensee or
56 any other person has violated any of the provisions of
57 sections 324.1200 to 324.1242 or any other law relating to a
58 home improvement business, to investigate such violations as
59 the board deems necessary. The board may examine such
60 licensee or any other persons and may compel the production
61 of all relevant books, records, accounts, documents, or
62 other records.

63 7. The board shall instruct and conduct public
64 education on the consumer protection provisions of sections
65 324.1200 to 324.1242 and the necessary licenses and permits
66 that home improvement contractors must obtain to perform
67 certain types of home improvement work, including but not
68 limited to plumbing work, electrical work, and the raising,
69 lifting, elevating, or moving of a home or building. Such
70 instruction and public education shall be provided to home
71 improvement contractors, homeowners, and members of the
72 public at least semiannually.

73 8. The board may make such rules and regulations as
74 may be necessary with respect to the form and content of
75 applications for licenses, the reception thereof, the
76 investigation and examination of applicants and their
77 qualifications, and the other matters incidental or
78 appropriate to its powers and duties, and to amend or repeal
79 any such rules and regulations. Any rule or portion of a
80 rule, as that term is defined in section 536.010, that is
81 created under the authority delegated in this section shall
82 become effective only if it complies with and is subject to
83 all of the provisions of chapter 536 and, if applicable,
84 section 536.028. This section and chapter 536 are
85 nonseverable and if any of the powers vested with the
86 general assembly pursuant to chapter 536 to review, to delay
87 the effective date, or to disapprove and annul a rule are
88 subsequently held unconstitutional, then the grant of
89 rulemaking authority and any rule proposed or adopted after
90 August 28, 2022, shall be invalid and void.

 324.1204. 1. No person shall solicit, canvass, sell,
2 perform, or obtain a home improvement contract as a
3 contractor or salesperson from an owner without a license
4 therefor.

5 2. A home improvement contractor license shall not be
6 construed to authorize the licensee to perform any
7 particular type of work or engage in any kind of business
8 which is reserved to qualified licensees under separate
9 provisions of state or local law, nor shall any license or
10 authority other than that which is issued or permitted
11 pursuant to sections 324.1200 to 324.1242 authorize engaging
12 in the home improvement business.

13 3. No contractor's license shall be required in the
14 following instances:

15 (1) An individual who performs labor or services for a
16 contractor for wages or salary;

17 (2) A plumber, electrician, architect, professional
18 engineer, or any other such person who is required by state
19 or local law to attain standards of competency or experience
20 as a prerequisite to engaging in such craft or profession,
21 or any person required to be licensed pursuant to law to
22 engage in the business of installing, servicing, or
23 maintaining security or fire alarm systems, and who is
24 acting exclusively within the scope of the craft,
25 profession, or business for which he or she is currently
26 licensed pursuant to such other law;

27 (3) Any retail clerk, clerical, administrative, or
28 other employee of a licensed contractor, as to a transaction
29 on the premises of the contractor;

30 (4) Sections 324.1200 to 324.1242 shall not apply to
31 or affect the validity of a home improvement contract made
32 prior to the effective date of this act;

33 (5) Any home improvement, where the aggregate contract
34 price for all labor, materials, and other goods or services
35 is less than five hundred dollars. This exemption shall not
36 apply if:

37 (a) The work is only part of a larger or major
38 operation, whether undertaken by the same or a different
39 contractor;

40 (b) The work is divided into contracts in amounts less
41 than five hundred dollars for the purpose of qualifying for
42 the exemption available under this subdivision.

 324.1206. 1. There is hereby created the "Home
2 Improvement Contractor Fund". The fund shall consist of
3 money collected under sections 324.1200 to 324.1242. The
4 state treasurer shall be custodian of the fund and may

5 approve disbursements from the fund in accordance with the
6 provisions of sections 30.170 and 30.180. Upon
7 appropriation, money in the fund shall be used solely for
8 the administration of sections 324.1200 to 324.1242. The
9 provisions of section 33.080 to the contrary
10 notwithstanding, money in this fund shall not be transferred
11 and placed to the credit of general revenue until the amount
12 in the fund at the end of the biennium exceeds two times the
13 amount of the appropriation from the board's funds for the
14 preceding fiscal year or, if the board requires by rule
15 license renewal less frequently than yearly, then three
16 times the appropriation from the board's funds for the
17 preceding fiscal year. The amount, if any, in the fund
18 which shall lapse is that amount in the fund which exceeds
19 the appropriate multiple of the appropriations from the
20 board's funds for the preceding fiscal year.

21 2. The application and renewal fee for a home
22 improvement contractor license shall be fifty dollars.

23 3. In addition to the application fee, each person
24 applying for or renewing a home improvement contractor
25 license shall either pay a separate fee of two hundred
26 dollars or file with the board a surety bond providing
27 coverage in the amount of twenty-five thousand dollars for
28 the benefit of persons contracting with the applicant for
29 all claims of property damage arising from the applicant's
30 performance under a home improvement contract.

31 4. The fee for a home improvement salesperson's
32 license shall be twenty-five dollars.

324.1208. 1. No license issued pursuant to sections
2 324.1200 to 324.1242 shall be assignable or transferable.

3 2. Such license shall at all times be posted in a
4 conspicuous place in the place of business of the licensee.

5 3. Within ten days of a change in ownership,
6 management, address, or trade name of a home improvement
7 business, licensees shall notify the board of each such
8 change.

9 4. A duplicate license may be issued for one lost or
10 mutilated and shall bear the word "duplicate" stamped across
11 its face.

 324.1210. 1. An application for a license issued
2 pursuant to sections 324.1200 to 324.1242 and the renewal
3 thereof shall be made on a form and in a manner prescribed
4 by the board.

5 2. A separate license shall be required for each place
6 of business.

7 3. The application shall be filed only by the actual
8 owner of a business; shall be in writing, signed and under
9 oath; and shall contain the office address of the business
10 and the names and addresses of the owner or partners. If
11 the applicant is a corporation, trade group, or association,
12 the application shall also include the names and addresses
13 of the directors and principal officers.

14 4. The board may require applications to contain any
15 other information, including the names and addresses of any
16 employees of an applicant.

17 5. Each applicant shall be over eighteen years of age
18 and of good character.

19 6. Applicants shall be fingerprinted for the purpose
20 of securing national criminal history background check and
21 shall be responsible for any fees associated with doing so.
22 For the purposes of this subsection, fingerprints shall be
23 taken of the individual owner if the applicant is a sole
24 proprietorship; the general partners if the applicant is a
25 partnership; and the officers, principals, directors, and

26 stockholders owning more than ten percent of the outstanding
27 stock of the corporation if the applicant is a corporation.

28 7. Each application for a license to solicit, canvass,
29 sell, perform, or obtain a home improvement contract as a
30 contractor from an owner, or for renewal thereof, filed on
31 or after the effective date of this act shall contain
32 sufficient information, as prescribed by the board, to
33 verify the applicant's compliance with applicable lien laws.

324.1212. 1. The board may refuse to issue any
2 license required pursuant to sections 324.1200 to 324.1242,
3 or to renew or reinstate any such license, for any one or
4 more of the reasons stated in subsection 2 of this section.
5 The board shall notify the applicant in writing of the
6 reasons for the refusal and shall inform the applicant of
7 his or her right to file a complaint with the administrative
8 hearing commission as provided in chapter 621.

9 2. The board may cause a complaint to be filed with
10 the administrative hearing commission as provided by chapter
11 621 against any holder of any license required by sections
12 324.1200 to 324.1242 or any person who has failed to renew
13 or has surrendered such person's license, for any one or any
14 combination of the following causes:

15 (1) The person has been finally adjudicated and found
16 guilty, or entered a plea of guilty or nolo contendere, in a
17 criminal prosecution under the laws of any state, of the
18 United States, or of any country, for any offense directly
19 related to the duties and responsibilities of the
20 occupation, as set forth in section 324.012, regardless of
21 whether or not sentence is imposed;

22 (2) The use of fraud, deception, misrepresentation, or
23 bribery in securing any license issued pursuant to sections
24 324.1200 to 324.1242 or in obtaining permission to take any

25 examination given or required pursuant to sections 324.1200
26 to 324.1242;

27 (3) The issuance of a license was based upon a
28 material mistake of fact;

29 (4) Obtaining or attempting to obtain any fee, charge,
30 tuition, or other compensation by fraud, deception, or
31 misrepresentation;

32 (5) The person or the management personnel of the
33 contractor are untrustworthy or not of good character;

34 (6) Incompetence, misconduct, gross negligence, fraud,
35 misrepresentation, or dishonesty in the performance of the
36 functions or duties of the professions licensed pursuant to
37 sections 324.1200 to 324.1242;

38 (7) Violation of, or assisting or enabling any person
39 to violate, any provision of sections 324.1200 to 324.1242
40 or any rule or regulation adopted pursuant to such sections;

41 (8) Impersonation of any person holding a license, or
42 allowing any person to use his or her license or related
43 credentials;

44 (9) The person is finally adjudged incapacitated or
45 disabled by a court of competent jurisdiction;

46 (10) The business transactions of the contractor are
47 marked by a practice of failure to timely perform or
48 complete its contracts, the manipulation of assets or
49 accounts, fraud, bad faith, or an unwholesome method or
50 practice of solicitation of business from owners;

51 (11) Failure to comply with any demand lawfully made
52 by the board;

53 (12) Disciplinary action against the holder of a
54 license or other right to perform the profession regulated
55 by sections 324.1200 to 324.1242 granted by another state,

56 territory, federal agency, or country upon grounds for which
57 revocation or suspension is authorized in this state;

58 (13) Assisting or enabling any person to practice or
59 offer to practice any profession licensed or regulated
60 pursuant to sections 324.1200 to 324.1242 who is not
61 registered and currently eligible to practice under sections
62 324.1200 to 324.1242; or

63 (14) The use of any advertisement or solicitation
64 which is false, misleading, or deceptive to the general
65 public or persons to whom the advertisement or solicitation
66 is primarily directed.

67 3. After the filing of complaint pursuant to this
68 section, proceedings shall be conducted in accordance with
69 the provisions of chapter 621. Upon a finding by the
70 administrative hearing commission that the grounds provided
71 in subsection 2 of this section for disciplinary action are
72 met, the board may, singly or in combination, censure or
73 place the person named in the complaint on probation with
74 such terms and conditions as the board deems appropriate for
75 a period not to exceed five years, suspend the license of
76 such person for a period not to exceed three years, revoke
77 the license of such person, or order any applicable civil
78 penalty pursuant to sections 324.1200 to 324.1242.

324.1214. No home improvement contractor or
2 salesperson shall:

3 (1) Deviate from or disregard the plans,
4 specifications, or terms and conditions agreed to under a
5 home improvement contract in any material respect without
6 the written consent of the owner;

7 (2) Make any substantial misrepresentation in the
8 solicitation or procurement of a home improvement contract,
9 or make any false promise of a character likely to

10 influence, persuade, or induce the formation of such
11 contracts;

12 (3) Commit any fraud in the execution of, or in the
13 material alteration of, any contract, mortgage, promissory
14 note, or other document incident to a home improvement
15 transaction;

16 (4) Act as an agent for any owner, finance company, or
17 mortgage company to arrange or obtain an extension of credit
18 for an owner's obligations under a home improvement
19 contract, unless the instrument evidencing such owner's
20 indebtedness complies with the conditions of Part 433 of
21 Title 16 of the Code of Federal Regulations, as adopted and
22 amended;

23 (5) Directly or indirectly publish any advertisement
24 relating to home improvements which contains an assertion,
25 representation, or statement of fact which is false,
26 deceptive, or misleading, provided that any advertisement
27 which is subject to and complies with the existing rules,
28 regulations, and guidance of the Federal Trade Commission
29 shall not be deemed false, deceptive, or misleading;

30 (6) Advertise or purport to offer the general public
31 any home improvement work with the intent not to accept
32 contracts for the particular work or at the price which is
33 advertised or offered;

34 (7) Willfully or deliberately disregard or violate the
35 building, sanitary, fire, or health laws of the state or
36 ordinances of the county or city in which services are being
37 performed;

38 (8) Fail to notify the board of any change in control,
39 ownership, management, name, or location of the business;

40 (9) Conduct a home improvement business in any name
41 other than the one for which the contractor is licensed;

42 (10) Willfully fail to comply with any order, demand,
43 rule, regulation, or requirement made by the board;

44 (11) Promise or offer credit or any other compensation
45 or reward to an owner under a home improvement contract for
46 the procurement of a home improvement contract with others;

47 (12) Fail to perform work under a home improvement
48 contract in a skillful and competent manner;

49 (13) Procure a certificate of completion from an owner
50 prior to the actual completion of performance by the
51 contractor under a home improvement contract;

52 (14) Include any provision or clause in a home
53 improvement contract whereby the owner waives or is barred
54 from asserting any rights, claims, defenses, or remedies
55 available to an owner under sections 324.1200 to 324.1242 or
56 any rules or regulations promulgated pursuant thereto;

57 (15) Fail to comply with applicable lien laws;

58 (16) Concurrently represent more than one contractor
59 in the solicitation or negotiation of any one home
60 improvement contract from an owner. No contract forms which
61 fail to disclose a named contractor principal shall be
62 used. No salesperson shall be authorized to select a prime
63 contractor on behalf of the owner;

64 (17) Accept or pay any compensation of any kind for or
65 on account of a home improvement transaction, from or for
66 any person other than the contractor whom a home improvement
67 sales person represents with respect to the transaction;

68 (18) Offer, deliver, pay, or credit to the owner any
69 gift, bonus, award, merchandise, trading stamps, or cash
70 loan as an inducement to enter a home improvement contract,
71 except that a contractor or salesperson may give tangible
72 items to prospective customers for advertising or sales
73 promotion purposes where the gift is not conditioned upon

74 obtaining a contract for home improvement work and the items
75 given to a prospective customer do not exceed a total cost
76 of two dollars and fifty cents;

77 (19) In connection with any home repair or home
78 improvement, act as an agent for, or advertise, promote, or
79 arrange for, the services of a lender or a lender's
80 affiliate to secure a home loan or a home improvement loan
81 for or on behalf of an owner; or

82 (20) Receive payment from the proceeds of a home
83 improvement loan except by an instrument payable solely to
84 the borrower or, at the election of the borrower, through a
85 third party escrow agent in accordance with terms
86 established in a written agreement signed by the borrower,
87 the lender, and the contractor prior to disbursement.

324.1216. No acts, agreements, or statements of an
2 owner under a home improvement contract shall constitute a
3 waiver of any provision of sections 324.1200 to 324.1242
4 intended for the benefit or protection of the owner.

324.1218. 1. A licensee shall furnish a notice to the
2 owner that, in addition to any other right to revoke an
3 offer for a home improvement contract, the owner may cancel
4 such contract until midnight of the fifth business day after
5 the day on which the owner has first signed an agreement or
6 offer to purchase relating to such contract, or until
7 midnight of the fifth business day after the day on which
8 the owner first receives the notice of his or her right to
9 cancel, whichever occurs later.

10 2. Cancellation shall occur when written notice of
11 cancellation is given to the home improvement contractor.
12 Notice of cancellation, if given by mail, shall be deemed
13 given when deposited in a mailbox properly addressed with
14 postage prepaid.

15 3. Notice of cancellation shall be sufficient if it
16 indicates the intention of the owner not to be bound by such
17 home improvement contract or offer.

18 4. Notwithstanding the provisions of subsections 1 to
19 3 of this section, this section shall not apply to a
20 transaction in which the home improvement is needed to meet
21 a bona fide emergency of the owner, the owner initiates
22 contact, and the owner furnishes the home improvement
23 contractor with a separate dated and signed personal
24 statement in the owner's handwriting describing the
25 situation requiring immediate remedy and expressly
26 acknowledging and waiving the right to cancel the home
27 improvement contract within five business days.

 324.1220. A home improvement contractor or any
2 salesperson, employee, or agent of such contractor shall
3 affirmatively disclose that an estimate in writing of the
4 materials and labor necessary for a specific home
5 improvement job is available to any consumer. Upon request,
6 such contractor shall make and furnish to the consumer such
7 estimate. A reasonable fee may be charged for the estimate,
8 the fee for which shall be disclosed to the consumer prior
9 to the furnishing of the estimate and shall be itemized and
10 reflected in the total estimated contract price.

 324.1222. 1. Any contractor, canvasser, or seller of
2 home improvements who knowingly makes any false or
3 fraudulent representations or statements with respect to the
4 character of any sale or to the quality, condition, or value
5 of any property, and any person who causes or authorizes any
6 such representations or statements, shall be guilty of a
7 class A misdemeanor.

 2. Any person who is induced to contract for home
8 improvements in reliance on false or fraudulent
9

10 representations or statements knowingly made, may sue and
11 recover from such home improvement contractor or solicitor a
12 penalty of five hundred dollars in addition to any damages
13 sustained by him or her by reason of such statements or
14 representations made by the contractor or by his or her
15 agents or employees.

324.1226. 1. Any person who owns, conducts, or
2 operates a home improvement business without a license or
3 who knowingly violates any of the provisions of sections
4 324.1200 to 324.1242 or any rules promulgated thereunder,
5 with the exception of violations of subsection 324.1222,
6 shall be guilty of a class B misdemeanor, and each such
7 violation shall be deemed a separate offense. Any person
8 found guilty pursuant to this subsection shall be subject to
9 such other penalties as may be otherwise provided by law.

10 2. In addition to the penalties provided in subsection
11 1 of this section, any person who violates any of the
12 provisions of sections 324.1200 to 324.1242 shall be liable
13 for a penalty of not more than one thousand dollars for each
14 such violation.

15 3. The attorney general may bring an action in the
16 name of the state to restrain or prevent any violation of
17 sections 324.1200 to 324.1242.

18 4. Where any such violation is found to be willful, or
19 where such violation has posed a threat to the health or
20 safety of the owner, the board may order the contractor to
21 pay to the owner an amount which shall not exceed three
22 times the actual amount of any damages sustained by the
23 owner as a result of such violations.

324.1228. 1. Every home improvement contract subject
2 to the provisions of sections 324.1200 to 324.1242 shall be
3 evidenced by a writing and shall be signed by all the

4 parties to the contract. The writing shall contain the
5 following:

6 (1) The name, address, telephone number, and license
7 number of the contractor;

8 (2) The approximate or estimated dates when the work
9 will begin and be substantially completed, including a
10 statement of any contingencies that would materially change
11 the approximate or estimated completion date. The contract
12 shall also specify whether or not the contractor and the
13 owner have determined a definite completion date to be of
14 the essence;

15 (3) A description of the work to be performed, the
16 materials to be provided to the owner, including make, model
17 number, and any other identifying information, and the
18 agreed-upon consideration for the work and materials;

19 (4) A notice to the owner purchasing the home
20 improvement that the contractor, a subcontractor who
21 performs on the contract, or a materialman who provides home
22 improvement goods or services may have a claim against the
23 owner which may be enforced against the property in
24 accordance with the applicable lien laws if such person is
25 not paid. Such home improvement contract shall also contain
26 the following notice to the owner in clear and conspicuous
27 boldface type:

28 "Any contractor, subcontractor, or materialman
29 who provides home improvement goods or services
30 pursuant to your home improvement contract and
31 who is not paid may have a valid legal claim
32 against your property known as a mechanic's
33 lien. Any mechanic's lien filed against your
34 property may be discharged. Payment of the
35 agreed-upon price under the home improvement

36 contract prior to filing of a mechanic's lien
37 may invalidate such lien. The owner may contact
38 an attorney to determine his rights to discharge
39 a mechanic's lien."

40 (5) A notice to the owner purchasing the home
41 improvement that, except as otherwise provided in
42 subdivisions (6) and (7) of this subsection, the home
43 improvement contractor is legally required to deposit all
44 payments received prior to completion with an escrow agent
45 and that, in lieu of such deposit, the home improvement
46 contractor may post a bond, contract of indemnity, or
47 irrevocable letter of credit with the owner guaranteeing the
48 return or proper application of such payments to the
49 purposes of the contract;

50 (6) If the contract provides for one or more progress
51 payments to be paid to the home improvement contractor by
52 the owner before substantial completion of the work, the
53 contract shall include a schedule of such progress payments
54 showing the amount of each payment, as a sum in dollars and
55 cents, and specifically identifying the state of completion
56 of the work or services to be performed, including any
57 materials to be supplied before each such progress payment
58 is due. The amount of any such progress payments shall bear
59 a reasonable relationship to the amount of work to be
60 performed, materials to be purchased, and expenses for which
61 the contractor would be obligated at the time of payment.
62 Notwithstanding the provision of subdivision (5) of this
63 subsection to the contrary, progress payments need not be
64 deposited with an escrow agent or otherwise guaranteed, and
65 the contract may provide for progress payments to be made
66 from payments deposited with an escrow agent prior to
67 completion;

68 (7) If the contract provides that the home improvement
69 contractor will be paid on a specified hourly or time basis
70 for work that has been performed or charges for materials
71 that have been supplied prior to the time that payment is
72 due, a notice that such payments for such work or materials
73 shall not be deemed to be progress payments for the purposes
74 of subdivision (6) of this subsection and shall not be
75 required to be deposited in accordance with the provisions
76 of subdivision (5) of this subsection;

77 (8) A notice to the owner that, in addition to any
78 right to revoke an offer, the owner may cancel the home
79 improvement contract until midnight of the fifth business
80 day after the day on which the owner has signed an agreement
81 or offer to purchase relating to such contract.
82 Cancellation occurs when written notice of cancellation is
83 given to the home improvement contractor. Notice of
84 cancellation, if given by mail, shall be deemed given when
85 deposited in a mailbox properly addressed and postage
86 prepaid. Notice of cancellation shall be sufficient if it
87 indicates the intention of the owner not to be bound.
88 Notwithstanding the foregoing, this subdivision shall not
89 apply to a transaction in which the owner has initiated the
90 contact and the home improvement is needed to meet a bona
91 fide emergency of the owner, and the owner furnishes the
92 home improvement contractor with a separate dated and signed
93 personal statement in the owner's handwriting describing the
94 situation requiring immediate remedy and expressly
95 acknowledging and waiving the right to cancel the home
96 improvement contract within five business days. For the
97 purposes of this subdivision, the term "owner" shall mean an
98 owner or any representative of an owner.

99 2. The writing shall be legible, in plain English, and
100 shall clearly describe any other document which is to be
101 incorporated into the contract. Before any work is done,
102 the owner shall be furnished a copy of the written
103 agreement, signed by the contractor. The writing may also
104 contain any other matters agreed to by the parties to the
105 contract.

 324.1230. No home improvement contractor shall engage
2 in any activity, transaction, or course of business or pay
3 or receive any fee, payment, money, or other thing of value
4 in connection with the financing of a home improvement
5 contract without fully disclosing to the owner such
6 activity, transaction, or course of business and any fees,
7 payment, or other thing of value paid or to be paid in
8 connection therewith, and without having obtained an
9 agreement in writing from all parties to the transaction to
10 such activity and the payment therefor.

 324.1232. 1. Every roofing contractor shall enter
2 into a written contract with an owner pursuant to the
3 provisions of section 324.1228 before engaging in the
4 business of roofing or gutter, downspout, or siding services
5 for such owner. In addition, the contract entered into
6 under this section shall contain the name of the insurer,
7 type of insurance coverage as required under subsection 9 of
8 this section, and the insurance policy limits obtained by
9 the roofing contractor.

10 2. A roofing contractor shall not advertise or promise
11 to pay or rebate all or any portion of any insurance
12 deductible as an inducement to the sale of goods or
13 services. As used in this section, a promise to pay or
14 rebate includes granting any allowance or offering any
15 discount against the fees to be charged or paying the

16 insured or any person directly or indirectly associated with
17 the property any form of compensation, gift, prize, bonus,
18 coupon, credit, referral fee, or other item of monetary
19 value for any reason.

20 3. An owner who has entered into a written contract
21 with a roofing contractor to provide goods or services to be
22 paid under a property and casualty insurance policy may
23 cancel the contract prior to midnight on the fifth business
24 day after the insured party has received written notice from
25 the insurer that all or any part of the claim or contract is
26 not a covered loss under the insurance policy. Cancellation
27 shall be effective when written notice of cancellation is
28 given to the roofing contractor. Notice of cancellation, if
29 given by registered or certified mail, shall be deemed given
30 when deposited in a mailbox properly addressed and postage
31 prepaid. Notice of cancellation shall be sufficient if it
32 indicates the intention of the owner not to be bound.
33 Notwithstanding the foregoing, this subsection shall not
34 apply to a transaction in which the owner has initiated the
35 contact and the roofing contract is needed to meet a bona
36 fide emergency of the owner, and the owner furnishes the
37 roofing contractor with a separate dated and signed personal
38 statement in the owner's handwriting describing the
39 situation requiring immediate remedy and expressly
40 acknowledging and waiving the right to cancel the roofing
41 contract within five business days.

42 4. Within ten days after a contract referred to in
43 this section has been cancelled, the roofing contractor
44 shall tender to the owner any payments, partial payments, or
45 deposits made and any note or other evidence of
46 indebtedness. If, however, the roofing contractor has
47 performed any emergency services, acknowledged by the owner

48 in writing to be necessary to prevent damage to the
49 premises, the roofing contractor shall be entitled to the
50 reasonable value of such services. Any provision in a
51 contract referred to in this section that requires the
52 payment of any fee for anything except emergency services
53 shall not be enforceable against the owner who has cancelled
54 a contract pursuant to this section.

55 5. A roofing contractor shall not require an owner to
56 provide a deposit for the work and materials except with an
57 escrow agent, title insurance company, or bank. A roofing
58 contractor shall not mandate that a particular form of
59 payment be made in order to commence performance of the home
60 improvement. A roofing contractor may invoice for payment
61 of the materials portion of the project upon delivery of the
62 materials to the owner of the property. The material cost
63 shall be disclosed to the property owner in writing in
64 advance of payment. A roofing contractor may invoice the
65 remainder of the project upon successful completion of all
66 contracted work.

67 6. A roofing contractor shall not abandon, or fail to
68 perform, without justification, any roofing contract, nor
69 shall the roofing contractor deviate from or disregard plans
70 or specifications in any material respect without the
71 consent of the owner. A roofing contractor shall abide by
72 the applicable building code for the jurisdiction where the
73 residential property is located.

74 7. A roofing contractor shall not fail to pay for
75 materials or services rendered in connection with a roofing
76 contract where the contractor has received sufficient funds
77 as payment for the particular contract for which the
78 services or material were rendered or purchased.

79 8. A roofing contractor shall not perform the
80 reporting, adjusting, or negotiating of a claim on behalf of
81 the owner and shall not receive compensation for the
82 referral to any entity that reports, adjusts, or negotiates
83 a claim on behalf of an owner. Nothing in this section shall
84 prevent a roofing contractor from communicating with an
85 insurance company representative and sharing his or her
86 technical knowledge when the insurer initiates the
87 communication.

88 9. (1) A roofing contractor shall provide to the
89 owner adequate proof of insurance, including:

90 (a) A certificate of insurance for workers'
91 compensation coverage or an affidavit, on a form prescribed
92 by the division of workers' compensation of the department
93 of labor and industrial relations, signed by the applicant,
94 attesting that the contractor is exempt; and

95 (b) Certificates of general liability and property
96 damage insurance in the amount of one hundred thousand
97 dollars per person; three hundred thousand dollars per
98 occurrence, for bodily injury; and fifty thousand dollars
99 per occurrence and aggregate for property damage.

100 (2) The insurance requirements set forth in this
101 section shall apply to roofing contracts performed in all
102 counties and cities that do not require insurance for such
103 contracts.

324.1234. 1. Any owner who is induced to contract for
2 a home improvement in reliance of false or fraudulent
3 written representations or statements may sue and recover
4 from such contractor a penalty of five hundred dollars plus
5 reasonable attorney's fees, in addition to any damages
6 sustained by the owner by reason of such statements or
7 representations. In addition, if a court finds that a suit

8 initiated by the owner was without arguable legal merit, it
9 may award reasonable attorney's fees to the contractor.

10 2. Nothing in sections 324.1200 to 324.1242 shall
11 impair, limit, or reduce the statutory, common law or
12 contractual duties or liability of any contractor.

324.1236. 1. Every home improvement contractor who
2 violates any of the provisions of sections 324.1200 to
3 324.1242 shall be subject to a civil penalty not to exceed
4 one thousand dollars.

5 2. Every home improvement contractor who fails to
6 deposit funds in an escrow account or provide a bond or
7 contract of indemnity or irrevocable letter of credit, or
8 who fails to provide a written contract substantially in
9 compliance with the requirements of sections 324.1200 to
10 324.1242, shall be subject to a civil penalty not to exceed
11 the greater of two hundred fifty dollars for each violation
12 or five percent of the aggregate contract price specified in
13 the home improvement contract; provided, however, that in no
14 event shall the total penalty exceed two thousand five
15 hundred dollars for each contract.

16 3. If a contractor has been found to have committed
17 multiple violations of sections 324.1200 to 324.1242, the
18 court shall consider the following factors in assessing a
19 civil penalty pursuant to subsection 2 of this section: The
20 volume of business which the home improvement contractor
21 performs on an annual basis, the number of contracts in
22 violation, the actual financial loss or exposure to
23 financial loss suffered by any owner as a result of the
24 violations, and whether the home improvement contractor
25 acted in good faith or willfully with respect to such
26 violations. No home improvement contractor shall be subject
27 to the increased penalties provided by subsection 2 of this

28 section if such contractor shows by a preponderance of the
29 evidence that the violation was not intentional and resulted
30 from a bona fide error made notwithstanding the maintenance
31 of procedures reasonably adopted to avoid such a violation.

324.1238. 1. Upon any violation of the provisions
2 sections 324.1200 to 324.1242, an application may be made by
3 the attorney general in the name of the people of the state
4 to a court having jurisdiction to issue an injunction, and
5 upon notice to the defendant of not less than five days, to
6 enjoin and restrain the continuance of the violation. If it
7 shall appear to the satisfaction of the court that the
8 defendant has violated this section, an injunction may be
9 issued by the court, enjoining and restraining any further
10 violation, without requiring proof that any person has, in
11 fact, been injured or damaged thereby. In any such
12 proceeding, the court may award costs and reasonable
13 attorney fees to the attorney general and direct restitution.

14 2. In connection with an application made under this
15 section, the attorney general is authorized to take proof
16 and to make a determination of the relevant facts and to
17 issue subpoenas in accordance with the rules of civil
18 procedure.

19 3. The provisions of sections 324.1200 to 324.1242 may
20 be enforced concurrently by any lawful designee of a
21 municipality or local government, and all moneys collected
22 thereunder shall be retained by such municipality or local
23 government.

324.1240. No home improvement contractor shall be
2 exempt from complying with any local law with respect to the
3 regulation of home improvement contractors, provided,
4 however, that no political subdivision may enact a local law

5 inconsistent with the provisions of sections 324.1200 to
6 324.1242.

324.1242. If any clause, sentence, paragraph,
2 subdivision or part of sections 324.1200 to 324.1242 or the
3 application thereof to any person or circumstance shall be
4 adjudged by any court of competent jurisdiction to be
5 invalid or unconstitutional, such judgment shall not affect,
6 impair, or invalidate the remainder thereof, but shall be
7 confined in its operation to the clause, sentence,
8 paragraph, subdivision, or part, and in its application to
9 the person or circumstance directly involved in the
10 controversy in which such judgment shall have been rendered.

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