

By Senator Ingoglia

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1                                   A bill to be entitled  
2       An act relating to consumer protection; creating s.  
3       501.0195, F.S.; defining the term "unlicensed vendor";  
4       requiring an unlicensed vendor providing home repair  
5       services to take certain actions within a specified  
6       timeframe after receiving payment, except under  
7       certain circumstances; requiring the homeowner or  
8       homeowner's representative to make a written demand in  
9       a letter to the unlicensed vendor under certain  
10      circumstances; providing requirements for such letter;  
11      providing a presumption against the existence of just  
12      cause; prohibiting an unlicensed vendor who has  
13      received money in excess of the value of the work  
14      performed from failing to perform such work within a  
15      specified period of time; providing elements of prima  
16      facie evidence that an unlicensed vendor received  
17      money in excess of the value of the work performed;  
18      providing requirements for proper notification of  
19      contract termination; requiring the homeowner or the  
20      homeowner's representative to draft and send a letter  
21      containing a written demand if the unlicensed vendor  
22      fails to take certain action; providing requirements  
23      for such letter; providing a presumption against the  
24      existence of just cause; providing that the burden is  
25      on the unlicensed vendor to rebut this presumption;  
26      providing for prosecution of violations; providing  
27      that a specified claim on the part of the unlicensed  
28      vendor is not a defense to prosecution; providing  
29      criminal penalties; amending s. 501.022, F.S.;

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30 revising an exemption from permitting requirements for  
 31 certain solicitors, salespersons, and agents;  
 32 providing an effective date.

34 Be It Enacted by the Legislature of the State of Florida:

35  
 36 Section 1. Section 501.0195, Florida Statutes, is created  
 37 to read:

38 501.0195 Home repairs by unlicensed vendors.-

39 (1) For the purposes of this section, the term "unlicensed  
 40 vendor" means a person who:

41 (a) Provides or promises to provide services related to a  
 42 residential home or the extended parcel of land on which the  
 43 home is located, including, but not limited to, driveways,  
 44 lawns, trees, gardens, landscaping areas, walls, fences, or  
 45 other vegetation or fixtures located thereon; and

46 (b) Is not a contractor as defined in s. 489.105.

47 (2) (a) An unlicensed vendor who receives money as an  
 48 initial payment for performance of services must do both of the  
 49 following:

50 1. Unless the work does not require a permit under the  
 51 applicable codes and ordinances, apply for permits necessary to  
 52 complete the work within 30 days after the date payment is made;  
 53 and

54 2. If no permit is required, initiate the work within 30  
 55 days after the date of payment for the work or, if one or more  
 56 permits are required, within 30 days after the issuance of such  
 57 permits.

58 (b) Paragraph (a) does not apply to an unlicensed vendor

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59 who demonstrates just cause for his or her failure to apply for  
60 necessary permits, initiate work, or refund a payment or when  
61 the person who made an initial payment for the performance of  
62 home repair services agreed, in writing, to a longer timeframe  
63 for such application, initiation of work, or issuance of a  
64 refund.

65 (c)1. If an unlicensed vendor fails to comply with the  
66 requirements of paragraph (a), the homeowner or the homeowner's  
67 representative must make a written demand in a letter to the  
68 unlicensed vendor which includes a demand to apply for the  
69 necessary permits, to complete the work, or to refund the  
70 payment. Such letter must be sent by certified mail, with a  
71 return receipt requested, mailed to the address of the  
72 unlicensed vendor as listed in the contracting agreement. If  
73 there is no address for the unlicensed vendor listed in the  
74 contracting agreement, or if no written agreement exists, the  
75 homeowner or the homeowner's representative must mail the  
76 written demand letter to the address listed on the unlicensed  
77 vendor's business card. If no business card is provided, the  
78 homeowner or the homeowner's representative must mail the  
79 written demand letter to the last known address of the  
80 unlicensed vendor.

81 2. There is a presumption that an unlicensed vendor does  
82 not have just cause if he or she fails to apply for the  
83 necessary permits, start the work, or refund payments within 30  
84 days after receipt of a written demand from the person who made  
85 the payment to apply for the necessary permits, start the work  
86 or refund the payment.

87 (3) (a) An unlicensed vendor who receives money to perform

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88 home repair services in excess of the value of the work actually  
89 performed shall perform all contracted work and may not refuse  
90 to perform such work for any 30-day period or for such other  
91 period of time that was mutually agreed upon and specified in  
92 the contract.

93 (b) If the unlicensed vendor fails to comply with paragraph  
94 (a), the homeowner or the homeowner's representative must make a  
95 written demand to the unlicensed vendor in the form of a letter  
96 that includes a demand to perform work or to refund money  
97 received in excess of the value of the work performed. Such  
98 letter must be sent by certified mail, return receipt requested,  
99 to the address of the unlicensed vendor as specified in the  
100 contracting agreement. If no address for the unlicensed vendor  
101 is specified in the contracting agreement, or if no written  
102 agreement exists, the homeowner or homeowner's representative  
103 must mail the written demand letter to the address specified on  
104 the unlicensed vendor's business card or, if no business card is  
105 provided to the homeowner or homeowner's representative, the  
106 last known address of the unlicensed vendor.

107 (c) The following constitutes prima facie evidence that the  
108 unlicensed vendor received money to provide services in an  
109 amount that exceeds the value of the work he or she performed:

110 1. The unlicensed vendor failed to perform the work for  
111 which he or she was contracted, for a period of 30 days or more  
112 or for such other period of time as was mutually agreed upon and  
113 specified in the contract;

114 2. The failure to timely perform such work was not related  
115 to the homeowner's termination of the contract or a material  
116 breach of the contract by the homeowner; and

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117       3. The unlicensed vendor's failure to perform such work for  
118 such period was without just cause or was due to his or her  
119 improper termination of the contract without proper notification  
120 to the homeowner.

121       a. Proper notification to the homeowner of termination of  
122 the contract requires that an unlicensed vendor issue a letter  
123 to the homeowner or the homeowner's representative which  
124 includes the reason for termination of the contract or for  
125 failure to perform. Such letter must be sent by certified mail,  
126 return receipt requested, to the address of the homeowner listed  
127 in the contracting agreement. If no written agreement exists,  
128 the letter must be mailed to the address where the work was to  
129 be performed or, if applicable, to the address specified on the  
130 permit.

131       b. There is a presumption that an unlicensed vendor does  
132 not have just cause for his or her action or inaction if he or  
133 she fails to perform the work or refund the money received in  
134 excess of the value of the work performed within 30 days after  
135 receiving such written demand. The burden is on the unlicensed  
136 vendor to rebut this presumption.

137       (4) A violation of paragraph (2) (a) or paragraph (3) (a)  
138 must be prosecuted in accordance with the following:

139       (a) The required intent to prove a criminal violation may  
140 be shown to exist at the time that the unlicensed vendor  
141 appropriated the money to his or her own use and is not required  
142 to be proven to exist at the time of receiving the money from  
143 the homeowner or at the time the homeowner paid the unlicensed  
144 vendor.

145       (b) There is a presumption that an unlicensed vendor

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146 intended to deprive the homeowner of the right to the money owed  
147 or the benefit from such money and that the unlicensed vendor  
148 appropriated the money for his or her own use, or to another  
149 person not entitled to the use of the money, if the unlicensed  
150 vendor fails to refund any portion of the money owed within 30  
151 days after receiving a written demand for such money from the  
152 homeowner.

153 (c) In a prosecution for a violation of this section, the  
154 claim that the unlicensed vendor intended to return the money  
155 owed is not a defense.

156 (5) A person who violates paragraph (2) (a) commits:

157 (a) A misdemeanor of the first degree, punishable as  
158 provided in s. 775.082 or s. 775.083, if the total money  
159 received is less than \$1,000.

160 (b) A felony of the third degree, punishable as provided in  
161 s. 775.082, s. 775.083, or s. 775.084, if the total money  
162 received is less than \$1,000 and the unlicensed vendor has  
163 committed a second or subsequent violation of paragraph (2) (a)  
164 within a 3-year period.

165 (c) A felony of the third degree, punishable as provided in  
166 s. 775.082, s. 775.083, or s. 775.084, if the total money  
167 received is greater than or equal to \$1,000 but less than  
168 \$20,000.

169 (d) A felony of the second degree, punishable as provided  
170 in s. 775.082, s. 775.083, or s. 775.084, if the total money  
171 received is \$20,000 or more but less than \$200,000.

172 (e) A felony of the first degree, punishable as provided in  
173 s. 775.082, s. 775.083, or s. 775.084, if the total money  
174 received is \$200,000 or more.

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175 (6) A person who violates paragraph (3)(a) commits:

176 (a) A misdemeanor of the first degree, punishable as  
 177 provided in s. 775.082 or s. 775.083, if the total money  
 178 received is less than \$1,000.

179 (b) A felony of the third degree, punishable as provided in  
 180 s. 775.082, s. 775.083, or s. 775.084, if the total money  
 181 received is less than \$1,000 and the unlicensed vendor has had  
 182 more than one violation of paragraph (3)(a) within a 3-year  
 183 period.

184 (c) A felony of the third degree, punishable as provided in  
 185 s. 775.082, s. 775.083, or s. 775.084, if the total money  
 186 received is greater than or equal to \$1,000 but less than  
 187 \$20,000.

188 (d) A felony of the second degree, punishable as provided  
 189 in s. 775.082, s. 775.083, or s. 775.084, if the total money  
 190 received is \$20,000 or more but less than \$200,000.

191 (e) A felony of the first degree, punishable as provided in  
 192 s. 775.082, s. 775.083, or s. 775.084, if the total money  
 193 received is \$200,000 or more.

194 Section 2. Subsection (1) of section 501.022, Florida  
 195 Statutes, is amended to read:

196 501.022 Home solicitation sale; permit required.-

197 (1)(a) It is unlawful for a ~~any~~ person to conduct a ~~any~~  
 198 home solicitation sale, as defined in s. 501.021, or to  
 199 supervise excluded minors conducting such sales provided in  
 200 subparagraph (b)5., in this state without first obtaining a  
 201 valid home solicitation sale permit as provided in this section.

202 (b) ~~The following are excluded from the operation of This~~  
 203 section does not apply to any of the following:

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204           1. Bona fide agents, business representatives, or  
205 salespersons making calls or soliciting orders at the usual  
206 place of business of a customer regarding products or services  
207 for use in connection with the customer's business.

208           2. Solicitors, salespersons, or agents making a call or  
209 business visit upon the express invitation, oral or written, of  
210 an inhabitant of the premises or her or his agent.

211           3. Telephone solicitors, salespersons, or agents making  
212 calls which involve transactions that are unsolicited by the  
213 consumer and consummated by telephone and without any other  
214 contact between the buyer and the seller or its representative  
215 before ~~prior to~~ delivery of the goods or performance of the  
216 services.

217           4. Solicitors, salespersons, or agents conducting a sale,  
218 lease, or rental of consumer goods or services by sample,  
219 catalog, or brochure for future delivery. For purposes of this  
220 subparagraph, a business card does not constitute a sample,  
221 catalog, or brochure.

222           5. Minors, as defined in s. 1.01(13), conducting home  
223 solicitation sales under the supervision of an adult supervisor  
224 who holds a valid home solicitation sale permit. Minors excluded  
225 from operation of this section must, however, carry personal  
226 identification which includes their full name, date of birth,  
227 residence address, and employer and the name and permit number  
228 of their adult supervisor.

229           6. Those sellers or their representatives that are  
230 currently regulated as to the sale of goods and services by  
231 chapter 475 or chapter 497.

232           7. Solicitors, salespersons, or agents making calls or



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233 soliciting orders on behalf of a religious, charitable,  
234 scientific, educational, or veterans' institution or  
235 organization holding a sales tax exemption certificate under s.  
236 212.08(7).

237 Section 3. This act shall take effect July 1, 2025.