

Printer's no.

The General Assembly Of Pennsylvania

**Bill
No.**

Session of
2009

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| Introduced by |
| As reported from committee |

An Act

1 Amending Act No. 132 of October 17, 2008 known as the Home Improvement Consumer
2 Protection Act, 73 P.S. §§ 517.1-517.19 to permit owners to void certain provisions of a home
3 improvement contract without voiding the entire contract, and for additional provisions relating
4 to the effective date thereof and permitting time for dissemination of the registration
5 requirements to contractors and other affected persons.

6 The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

7 Section 1. Section 7(e) of the Home Improvement Consumer Protection Act, 73 P.S. §517.7(e)
8 is amended to read as follows:

9 Section 7(e) If a home improvement contract contains any of the following clauses, ~~the~~
10 ~~home improvement contract~~ such clause, or clauses, shall be void and unenforceable
11 ~~against shall be voidable by the owner, except that the clause described in subsection~~
12 (11) of this subsection (e) shall be enforceable if the conditions specified in subsections
13 (i), (ii) and (iii) thereof are met:

14 (1) A hold harmless clause.

15 (2) A waiver of Federal, State or local health, life, safety or building code requirements.

16 (3) A confession of judgment clause.

17 (4) A waiver of any right to a jury trial in any action brought by or against the owner.

18 (5) (Reserved).

19 (6) An assignment of or order for payment of wages or other compensation for services.

20 (7) A provision by which the owner agrees not to assert any claim or defense arising out
21 of the contract.

22 (8) A provision that the contractor shall be awarded attorney fees and costs.

23 (9) A clause by which the owner relieves the contractor from liability for acts committed
24 by the contractor or the contractor's agents in the collection of any payments or in the

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1 repossession of any goods.

2 (10) A waiver of any rights provided for under this act.

3 (11) A provision providing for the automatic or recurring renewal of any provisions of
4 the agreement, unless:

5 (i) the contract establishes a procedure by which the owner can choose not to renew
6 the provision or provisions, thereby avoiding any new fees or charges, by
7 providing written notice to the contractor via first class mail postmarked no later
8 than three business days prior to any renewal;

9 (ii) such procedure is clearly and conspicuously disclosed in the agreement; and

10 (iii) the contract includes a provision requiring the contractor to notify the owner
11 of any automatic or recurring renewal, and the owner's option to cancel such
12 renewal, by mail not earlier than 20 days and not later than ten days prior to the
13 date of any such renewal.

14 Section 2. A new section following Section 19 of said Act shall be added as follows:

15 Section 20. For a period of 120 days following the effective date of this act, July 1, 2009,
16 the following provisions shall apply:

17 (1) Registration at a later date than July 1, 2009, but not later than 120 days thereafter
18 shall not be deemed a violation of Section 3(a), Section 4(a), Section 6, Section 7(a),
19 or Section 9(1) hereof, provided there is no evidence that the contractor has engaged
20 in any of the offenses defined in Section 8 hereof during that time. If there has been
21 any offense under Section 8 during this period of time, then the failure to register
22 shall be deemed to be a violation of Section 9(1).

23 (2) The exceptions in Subsection (1) of this Section 20 shall not apply if it is determined
24 by the Bureau that the contractor was aware of the registration requirement prior to
25 entering into a home improvement contract and had willfully failed to promptly apply
26 for registration.

27 (3) Any home improvement contractor that has not registered during the said 120 days
28 shall nevertheless be subject during that time to all of the provisions of the act of
29 December 17, 1968 (P.L. 1224, No. 387), known as the Unfair Trade Practices and
30 Consumer Protection law.