A bill to be entitled
An act relating to consumer protection; amending s. 489.126, F.S.; revising the definition of the term "contractor"; reducing the time period within which a contractor must perform substantial work on residential real property after receiving initial payment for such work and during which the contractor may refuse to perform substantial work on such property; defining the term "substantial work"; amending s. 501.022, F.S.; removing an exemption from permitting requirements for certain solicitors, salespersons, and agents; conforming a cross-reference; providing an effective date.

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

Section 1. Section 489.126, Florida Statutes, is amended to read:

489.126 Moneys received by contractors.—
(1) For purposes of this section, the term "contractor" has the same meaning as provided includes all definitions as set forth in s. 489.105(3), and includes any person who performs, contracts to perform, or promises to perform services performing or contracting or promising to perform work described in that subsection, or who provides or performs, contracts to provide or
perform, or promises to provide or perform goods or services, respectively, related to a residential home and the extended parcel of land on which the home is located, including, but not limited to, driveways, lawns, trees, gardens, landscaping areas, walls, and other vegetation or fixtures located thereon therein, without regard to the licensure of the person.

(2) A contractor who receives, as initial payment, money totaling more than 10 percent of the contract price for the repair, restoration, improvement, or construction of or addition to residential real property must:

(a) Apply for permits necessary to do work within 30 days after the date payment is made, unless except where the work does not require a permit under the applicable codes and ordinances, and

(b) Start the work within 30 90 days after the date all necessary permits for work, if any, are issued, unless the person who made the payment agreed, in writing, to a longer period to apply for the necessary permits or start the work or to longer periods for both.

(3)(a) A contractor who receives money for the repair, restoration, addition, improvement, or construction of or addition to residential real property in excess of the value of the work performed may shall not, with intent to defraud the owner, fail or refuse to perform any substantial work for any
30-day 90-day period after the date all necessary permits for 
work, if any, are issued.

(b) Proof that a contractor received money for the repair, 
restoration, addition, improvement, or construction of or 
addition to residential real property and that the amount 
received exceeds the value of the work performed by the 
contractor and that:

1. The contractor failed to perform any substantial of the 
work for which he or she contracted during any 30-day 60-day 
period;

2. The failure to perform any substantial such work during 
the 30-day 60-day period was not related to the owner's 
termination of the contract or a material breach of the contract 
by the owner; and

3. The contractor failed, for an additional 30-day period 
after the date of mailing of notification as specified in 
paragraph (c), to perform any substantial work for which he or 
she contracted,
gives rise to an inference that the money in excess of the value 
of the work performed was taken with the intent to defraud.

(c) Notification pursuant to as contemplated in paragraph 
(b) consists of a certified letter, return receipt requested, 
mailed to the address of the contractor as listed in the written 
contracting agreement. The letter must indicate that the
contractor has failed to perform any **substantial** work for a **30-day** period, that the failure to perform the work was not the result of the owner's termination of the contract or a material breach of the contract by the owner, and that the contractor must **resume work** recommence construction within 30 days after the date the letter is mailed of mailing of the letter. If there is no address for the contractor listed in the written contracting agreement, or if a written contracting agreement does not exist exists, the letter must be mailed to the address of the contractor listed in the building permit application.

(d) For the purposes of this subsection, the term "substantial work" means work performed by the contractor that equals or exceeds the amount of money received by the contractor for work to be performed on the residential real property.

(4) Any person who violates any provision of this section commits is guilty of theft, punishable as provided in and shall be prosecuted and punished under s. 812.014.

Section 2. Paragraphs (a) and (b) of subsection (1) of section 501.022, Florida Statutes, are amended to read:

501.022 Home solicitation sale; permit required.—

(1)(a) It is unlawful for any person to conduct any home solicitation sale, as defined in s. 501.021, or to supervise excluded minors conducting such sales provided in subparagraph (b)4. (b)5., in this state without first obtaining a valid home
solicitation sale permit as provided in this section.

(b) The following are excluded from the operation of this section:

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

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

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

4. Solicitors, salespersons, or agents conducting a sale, lease, or rental of consumer goods or services by sample, catalog, or brochure for future delivery.

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

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

6. Solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or organization holding a sales tax exemption certificate under s. 212.08(7).

Section 3. This act shall take effect July 1, 2019.