

1 A bill to be entitled
 2 An act relating to home repairs and solicitation
 3 sales; creating s. 501.0195, F.S.; defining the term
 4 "unlicensed vendor"; requiring an unlicensed vendor to
 5 take certain actions within a specified timeframe
 6 after receiving initial payment for work to be
 7 performed; providing conditions under which an
 8 unlicensed vendor does not have just cause; providing
 9 criminal penalties and guidelines for prosecuting
 10 violations; amending s. 501.022, F.S.; revising an
 11 exemption from permitting requirements for certain
 12 solicitors, salespersons, and agents; providing an
 13 effective date.

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

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 17 Section 1. Section 501.0195, Florida Statutes, is created
 18 to read:

19 501.0195 Home repairs by unlicensed vendors.—

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

22 (a) Is not certified or registered under chapter 489.

23 (b) Provides or promises to provide services related to a
 24 residential home and the extended parcel of land on which the
 25 home is located, including, but not limited to, driveways,

26 lawns, trees, gardens, landscaping areas, walls, fences, or
 27 other vegetation or fixtures located thereon.

28 (2) Unless there is just cause, an unlicensed vendor who
 29 receives an initial payment for work to be performed must do all
 30 of the following:

31 (a) If the work requires a permit, apply for such permits
 32 within:

33 1. Fourteen days after receiving an initial payment for
 34 the work; or

35 2. The timeframe agreed upon in a written contract between
 36 the vendor and customer.

37 (b) Start the work within:

38 1. Fourteen days after receiving an initial payment for
 39 the work;

40 2. Fourteen days after the date all necessary permits for
 41 the work are issued; or

42 3. The timeframe agreed upon in a written contract between
 43 the vendor and homeowner.

44 (c) Perform and continue the work without failure:

45 1. For any 14-day period after receiving an initial
 46 payment for the work;

47 2. Within 14 days after the date all necessary permits for
 48 the work are issued; or

49 3. Within the timeframe agreed upon in a written contract
 50 between the vendor and homeowner.

51 (3) There is a presumption that an unlicensed vendor does
 52 not have just cause if the unlicensed vendor:

53 (a) Fails to refund all money paid by the homeowner in
 54 excess of the value of any work performed; and

55 (b) Fails to do any of the following:

56 1. Apply for any required permits pursuant to paragraph

57 (2)(a);

58 2. Start the work pursuant to paragraph (2)(b);

59 3. Perform and continue the work without failure pursuant
 60 to paragraph (2)(c); or

61 4. Terminate the written contract without proper
 62 notification. To provide proper notification, the vendor must
 63 send a letter by certified mail, return receipt requested, to
 64 the homeowner, explaining the reason for termination of the
 65 written contract or failure to perform the work pursuant to
 66 subsection (2). If there is not a written contract between the
 67 vendor and homeowner, the letter may be mailed to the address
 68 where the work was to be performed or the address listed on a
 69 permit for the work, if applicable.

70 (4) A violation of this section is:

71 (a) A misdemeanor of the first degree, punishable as
 72 provided in s. 775.082 or s. 775.083 if the total money received
 73 is less than \$500.

74 (b) A felony of the third degree, punishable as provided
 75 in s. 775.082, s. 775.083, or s. 775.084 if the total money

76 received is less than \$500 and the unlicensed vendor has had
77 more than one violation within a 3-year period.

78 (c) A felony of the third degree, punishable as provided
79 in s. 775.082, s. 775.083, or s. 775.084 if the total money
80 received is greater than or equal to \$500 but less than \$5,000.

81 (d) A felony of the second degree, punishable as provided
82 in s. 775.082, s. 775.083, or s. 775.084 if the total money
83 received is \$5,000 or more but less than \$50,000.

84 (e) A felony of the first degree, punishable as provided
85 in s. 775.082, s. 775.083, or s. 775.084 if the total money
86 received is \$50,000 or more.

87 (5)(a) A violation of this section must be prosecuted in
88 accordance with the thresholds under subsection (4).

89 (b) The required intent to prove a criminal violation may
90 be shown to exist at the time that the unlicensed vendor
91 appropriated the money for his or her own use and is not
92 required to be proven to exist at the time the unlicensed vendor
93 took the money from the homeowner or at the time the homeowner
94 gave the money to the unlicensed vendor.

95 (c) It may be inferred that an unlicensed vendor intended
96 to deprive the homeowner of the right to or benefit of the money
97 owed and that the unlicensed vendor appropriated the money for
98 his or her own use or to a person not entitled to the use of the
99 money, if the unlicensed vendor fails to refund any portion of
100 the money paid by the homeowner in excess of the value of any

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101 work performed and fails to comply with subsection (2). The fact
102 that the unlicensed vendor intended to refund the money owed is
103 not a defense.

104 Section 2. Paragraph (b) of subsection (1) of section
105 501.022, Florida Statutes, is amended to read:

106 501.022 Home solicitation sale; permit required.—

107 (1)

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

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

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

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

123 4. Solicitors, salespersons, or agents conducting a sale,
124 lease, or rental of consumer goods or services by sample,
125 catalog, or brochure for future delivery. For purposes of this

126 subparagraph, a business card is not a sample, catalog, or
127 brochure.

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

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

138 7. Solicitors, salespersons, or agents making calls or
139 soliciting orders on behalf of a religious, charitable,
140 scientific, educational, or veterans' institution or
141 organization holding a sales tax exemption certificate under s.
142 212.08(7).

143 Section 3. This act shall take effect July 1, 2023.