

LSC 126 0092-1

126th General Assembly
Regular Session
2005-2006

. B. No.

A BILL

To enact sections 4722.01, 4722.02, 4722.021, 4722.03 1
to 4722.15, and 4722.99 of the Revised Code to 2
adopt the Home Improvement Contractor Law, 3
establish the Home Improvement Contractor 4
Registration Board in the Department of Commerce, 5
establish civil and criminal penalties for 6
violation of the law, and grant the attorney 7
general enforcement powers. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4722.01, 4722.02, 4722.021, 4722.03, 9
4722.04, 4722.05, 4722.06, 4722.07, 4722.08, 4722.09, 4722.10, 10
4722.11, 4722.12, 4722.13, 4722.14, 4722.15, and 4722.99 of the 11
Revised Code be enacted to read as follows: 12

Sec. 4722.01. As used in Chapter 4722. of the Revised Code: 13

(A) "Business day" means any calendar day except Sunday or 14
New Year's day, Martin Luther King day, Washington-Lincoln day, 15
Memorial day, Independence day, Labor day, Columbus day, Veterans' 16
day, Thanksgiving day, Christmas day, any day appointed and 17
recommended by the governor of this state or the president of the 18
United States as a holiday, and any other day defined as a legal 19
holiday in section 1.14 of the Revised Code. 20

(B) "Disabled" means a person who is certified as permanently 21

and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

22
23

(C) "Elderly" means a person who is sixty-five years of age or older on the date a home improvement contract is signed.

24
25

(D)(1) "Home improvement" means the repair, replacement, remodeling, alteration, conversion, improvement, rehabilitation, or addition to any building used or designed to be used as a one-, two-, or three-family dwelling house or an individually owned unit in a residential condominium development, and includes but is not limited to the construction, replacement, installation, repair, and improvement of sunrooms, porches, patios, decks, gazebos, driveways, sidewalks, fences, swimming pools, doors, windows, shutters, awnings, gutters, downspouts, siding, roofing, insulation, cabinetry, concrete, asphalt, flooring, painting, heating and air conditioning equipment, plumbing systems, appliances installed with permanent connections to plumbing, drainage or waterproofing systems, and garages.

26
27
28
29
30
31
32
33
34
35
36
37
38

(2) "Home improvement" does not include any of the following:

39

(a) Construction of a new one-, two-, or three-family dwelling house;

40
41

(b) Work performed on a structure that contains four or more dwelling units, except for work performed on a residential condominium unit that is individually owned;

42
43
44

(c) Work performed on the common area of a condominium property;

45
46

(d) Work performed by a person licensed pursuant to Chapter 921., 927., or 4740. of the Revised Code when the work is limited to the licensed trade;

47
48
49

(e) Goods sold or materials furnished by a seller who neither arranges to perform nor performs, directly or indirectly, any work

50
51

or labor in connection with the installation or application of the 52
goods or materials; 53

(f) Goods sold or services furnished for commercial or 54
business use or for resale; 55

(g) The sale of an appliance that is designed to be easily 56
transported and installed without a permanent connection to the 57
dwelling or land, including stoves, refrigerators, freezers, and 58
room air conditioners, or the installation of an appliance by the 59
retailer who sold the appliance or the retailer's agent. 60

(E) "Home improvement contractor" means any person who, for 61
compensation, engages in the business of performing or offering to 62
perform any home improvement. "Home improvement contractor" does 63
not include any of the following unless that person advertises or 64
indicates that the person is a home improvement contractor: 65

(1) A person who performs labor or services for a home 66
improvement contractor; 67

(2) A person who performs a home improvement on that person's 68
own dwelling unit; 69

(3) A person who works on one structure or project during a 70
twelve-month period under one or more home improvement contracts 71
for which the total amount of all contracts for labor, materials, 72
and other items is less than five hundred dollars and that work is 73
of a minor or inconsequential nature; 74

(4) A person licensed pursuant to Chapter 921., 927., or 75
4740. of the Revised Code when that person's work is limited to 76
the licensed trade. 77

(F) "Home improvement contract" means any agreement between a 78
home improvement contractor or salesperson and an owner for the 79
performance of a home improvement, and includes all agreements for 80
labor, services, and materials to be furnished and performed under 81

that contract. 82

(G) "Owner" means a person who owns a one-, two- or three- 83
family dwelling or the owner of an individual unit in a 84
condominium development. "Owner" includes a person authorized by 85
an owner to act on the owner's behalf to order, contract for, or 86
purchase a home improvement. 87

(H) "Home improvement salesperson" means an individual who, 88
on behalf of a home improvement contractor or as an agent or 89
employee of a home improvement contractor, negotiates or offers to 90
negotiate a home improvement contract with an owner or solicits or 91
sells a home improvement to an owner. 92

(I) "Special-order or custom-made materials" means materials 93
that, prior to their delivery to the work site, require processing 94
by a manufacturer to meet the designated specifications of a 95
particular home improvement project and cannot be returned to the 96
supplier for a refund or credit because of features that limit 97
their use to the specific project. 98

Sec. 4722.02. (A)(1) There is hereby created in the 99
department of commerce the Ohio home improvement contractor 100
registration board, consisting of eleven members who are residents 101
of this state. Two members, at least one of whom represents 102
professional remodeling groups of two hundred members or more, 103
shall represent professional remodeling groups, two members who 104
are not associated with or financially interested in the home 105
improvement industry shall represent the general public, one 106
member shall represent senior citizens, one member shall represent 107
the better business bureau, one member shall be a specialty 108
contractor, one member shall be employed as a building inspector, 109
and three members shall be employed in the home improvement 110
industry. 111

(2) The governor shall appoint the two members who represent professional remodeling groups, one of whom shall have an initial term ending December 31, 2007, and one of whom shall have an initial term ending December 31, 2009, the two members who represent the general public, one of whom shall have an initial term ending December 31, 2007, and one of whom shall have an initial term ending December 31, 2009, and one of the members who is employed by the home improvement industry, who shall have an initial term ending December 31, 2008.

(3) The president of the senate shall appoint the member who represents the better business bureau, who shall have an initial term ending December 31, 2007, and the member who is employed as a building inspector, who shall have an initial term ending December 31, 2008.

(4) The speaker of the house of representatives shall appoint the member who represents senior citizens, who shall have an initial term ending December 31, 2007, and the member who is employed as a specialty contractor, who shall have an initial term ending December 31, 2008.

(5) The attorney general shall appoint one of the members who is employed in the home improvement contracting industry, who shall have an initial term ending December 31, 2008.

(6) The director of commerce shall appoint one of the members who is employed with the home improvement contracting industry, who shall have an initial term ending December 31, 2009.

(B) After the initial term, each term of office is for three years ending on the thirty-first day of December. A member shall hold office from the date of appointment until the end of the term for which the member is appointed.

(C)(1) Any member appointed to fill a vacancy that occurs prior to the expiration of a term shall continue in office for the

remainder of that term. Any member shall continue in office 143
subsequent to the expiration of the term, until the member's 144
successor takes office, or until sixty days have elapsed, 145
whichever occurs first. 146

(2) A vacancy on the board does not impair the authority of 147
the remaining members to exercise all of the board's powers. 148

(3) Vacancies shall be filled in the manner of the original 149
appointment. 150

(D) The governor may remove any member from the board for 151
malfeasance, misfeasance, or nonfeasance after an adjudication in 152
accordance with Chapter 119. of the Revised Code. 153

(E) The board shall elect a member as chairperson for a 154
one-year term. The board shall meet at least once per month, at 155
the call of the chairperson. The chairperson shall notify each 156
member of the time, date, and place of each meeting at least one 157
week in advance. 158

(F) Members of the board receive no compensation for serving 159
on the board but are entitled to reimbursement for actual and 160
necessary expenses incurred in the discharge of their official 161
duties, including travel expenses, to be paid from the home 162
improvement contractor registration fund, established pursuant to 163
section 4722.04 of the Revised Code. 164

Sec. 4722.021. The Ohio home improvement contractor 165
registration board shall do all of the following: 166

(A) Adopt rules under Chapter 119. of the Revised Code to 167
carry out the purposes of this chapter, including rules governing 168
the registration of home improvement contractors; 169

(B) Develop and prescribe an application form for 170
registration as a home improvement contractor; 171

(C) Hear complaints from owners regarding violations of this chapter and recommend actions based on findings related to those complaints to the attorney general; 172
173
174

(D) Advise and inform the public concerning practices related to home improvements, the registration program for home improvement contractors, and actions a consumer may take regarding violations of this chapter; 175
176
177
178

(E) Maintain an electronic database that contains the information each applicant for registration or renewal submits as well as the action the board takes on each application and the reason or for any denial of an application or the suspension or revocation of a renewal. The attorney general shall have electronic access to the database. 179
180
181
182
183
184

(F) Maintain and make available to the public on the internet a list of the names, business addresses, and business telephone numbers of home improvement contractors; 185
186
187

(G) Maintain a system that enables contractors, online or by e-mail, to update registration and provide other information the board requires. 188
189
190

Sec. 4722.03. (A)(1) No person shall operate in this state as a home improvement contractor unless that person is registered with the Ohio home improvement contractor registration board in the department of commerce. 191
192
193
194

(2) Any advertisement for home improvements shall contain a home improvement contractor's registration number. 195
196

(B) No person licensed pursuant to Chapter 921., 927., or 4740. of the Revised Code is required to register as a home improvement contractor if that person's work is limited to the trade for which the person is licensed. 197
198
199
200

Sec. 4722.04. (A) To register as a home improvement contractor, a person shall submit a signed and notarized application to the Ohio home improvement contractor registration board on a form the board prescribes. The application shall provide all of the following information: 201
202
203
204
205

(1) The applicant's name and address, the telephone number and principal office address of the applicant's business, the name, residence address, and residential telephone number of each manager or person responsible for the operation of the business, and the name and address of any statutory agent who accepts service of process for the applicant; 206
207
208
209
210
211

(2) The names and addresses of all partners if the applicant is a partnership, of all parties if the applicant is a joint venture, of all officers if the applicant is a corporation, of each trustee if the applicant is a trust, or the receiver if the applicant is a receivership; 212
213
214
215
216

(3) A copy of the certificate of incorporation if the applicant is a corporation; 217
218

(4) The identity of the court supervising the receivership if the applicant is a receivership; 219
220

(5) A current photograph of each individual named pursuant to divisions (A)(1) and (A)(2) of this section; 221
222

(6) A description of the applicant's business, the applicant's experience performing home improvements, and all business and trade names the applicant has used in the preceding five years; 223
224
225
226

(7) Whether the applicant or any officer or principal has ever: 227
228

(a) Been convicted of a criminal offense related to a home improvement transaction or been convicted of fraud, theft, a crime 229
230

<u>of deception, or a crime involving fraudulent business practices;</u>	231
<u>(b) Had a civil judgment related to a home improvement</u>	232
<u>contract entered against either the applicant or a business in</u>	233
<u>which the applicant held an interest;</u>	234
<u>(c) Had a registration under this chapter revoked or</u>	235
<u>suspended pursuant to an order issued by a court of competent</u>	236
<u>jurisdiction or an administrative action;</u>	237
<u>(d) Been suspended or debarred from participating in any</u>	238
<u>federal, state, or local program that provides funding or other</u>	239
<u>assistance to consumers for home improvements during the preceding</u>	240
<u>ten years;</u>	241
<u>(e) Filed for bankruptcy and, if so, the name of the business</u>	242
<u>or individual that filed and the court and case number of the</u>	243
<u>filing.</u>	244
<u>(8) Evidence of general liability insurance in accordance</u>	245
<u>with section 4722.08 of the Revised Code;</u>	246
<u>(9) Evidence of workers' compensation risk coverage and</u>	247
<u>unemployment insurance coverage as required in Chapters 4123. and</u>	248
<u>4141. of the Revised Code;</u>	249
<u>(10) The name, residential address, residential telephone</u>	250
<u>number, business address, business telephone number, and</u>	251
<u>experience in the home improvement industry for each salesperson</u>	252
<u>the contractor employs or compensates for work;</u>	253
<u>(11) All names by which each salesperson the contractor</u>	254
<u>employs or compensates for work has been known;</u>	255
<u>(12) Other information the board determines necessary to</u>	256
<u>carry out the purposes of this chapter.</u>	257
<u>(B) Any person registered under this chapter shall notify the</u>	258
<u>board in writing or by e-mail of any change in the information</u>	259
<u>contained in that person's application within thirty business days</u>	260

following the change. Any person who fails to notify the board may 261
be assessed a penalty in an amount the board establishes by rule. 262
If a person fails to notify the board of a change of statutory 263
agent, service upon the statutory agent named in the application 264
shall be deemed effective. 265

(C) Any application for registration or renewal of 266
registration as a home improvement contractor shall be accompanied 267
by an application fee in the amount the board establishes by rule 268
adopted pursuant to Chapter 119. of the Revised Code. If an 269
application is denied, the board shall return all but twenty-five 270
dollars of the application fee to the applicant. 271

(D) The board shall pay all fees received pursuant to this 272
section to the treasurer of state, to be credited to the home 273
improvement contractor registration fund, which is hereby created 274
in the state treasury. The board shall use the fund to administer 275
the home improvement contractors registration program, to educate 276
consumers, home improvement contractors, and employees of 277
contractors, and to pay the board's expenses. 278

Sec. 4722.05. (A) Within thirty days after receiving a 279
completed application for registration as a home improvement 280
contractor, the Ohio home improvement contractor registration 281
board shall approve or deny that registration. The board shall 282
issue a certificate of registration to any person whose 283
registration is approved. A registration is effective for one year 284
and may be renewed according to rules the board adopts. No person 285
shall transfer or assign a registration or certificate to another 286
person. 287

(B) The board may deny or refuse to renew an application or 288
suspend or revoke a registration if a home improvement contractor 289
has done any of the following: 290

<u>(1) Deceptively obtained or attempted to obtain a registration for the contractor or any other person;</u>	291
	292
<u>(2) Intentionally failed to supply registration information or supplied falsified registration information;</u>	293
	294
<u>(3) Used a registration deceptively;</u>	295
<u>(4) Was found by a court of competent jurisdiction to have violated this chapter;</u>	296
	297
<u>(5) Was convicted of an unfair, deceptive, or unconscionable sales practice pursuant to sections 1345.01 to 1345.13 of the Revised Code, a felony or misdemeanor offense related to a home improvement contract, or a theft offense as defined in section 2913.01 of the Revised Code;</u>	298
	299
	300
	301
	302
<u>(6) Had a registration or a license as a home improvement contractor or a home improvement salesperson suspended or revoked by any state or a political subdivision of any state.</u>	303
	304
	305
<u>(C) The board shall make any decision to deny, refuse to renew, suspend, or revoke a registration pursuant to Chapter 119. of the Revised Code. The decision shall be in writing, set forth the facts relating to the situation that led to the denial, refusal, suspension, or revocation, the reasons for the decision, including reference to the law or rule directly involved, specify the time limit and procedure for appeal, and be delivered to the applicant by certified mail.</u>	306
	307
	308
	309
	310
	311
	312
	313
<u>(D)(1) Any person whose application is denied or whose registration is suspended or revoked may request a hearing by making a written request to the board within thirty days after receipt of the board's decision. The request shall include the name, address, and telephone number of the person requesting the hearing, and a brief statement of the grounds for appeal.</u>	314
	315
	316
	317
	318
	319
<u>(2) The board shall schedule and conduct a hearing in</u>	320

<u>accordance with Chapter 119. of the Revised Code.</u>	321
<u>(3) The hearing officer shall review the board's decision and affirm, reverse, vacate, or modify that decision within thirty business days after the hearing.</u>	322 323 324
<u>(E) No contractor may apply for registration for six months after the denial, suspension, or revocation of an application or registration. After that time, the board may consider a new application for registration in accordance with rules the board adopts pursuant to Chapter 119. of the Revised Code.</u>	325 326 327 328 329
<u>Sec. 4722.06. (A) No home improvement contractor shall perform any home improvement unless that contractor has entered into a written contract with the owner. The contract shall include all agreements and contain all of the following:</u>	330 331 332 333
<u>(1) The contractor's name, business street address, telephone number, and registration numbers;</u>	334 335
<u>(2) The owner's name, address, and telephone number;</u>	336
<u>(3) The address where the work is to be performed;</u>	337
<u>(4) A detailed description of the home improvement, including the goods and services to be furnished;</u>	338 339
<u>(5) The date or time period the home improvement is to begin and the date or time period it is to be completed;</u>	340 341
<u>(6) The total amount to be paid for the home improvement;</u>	342
<u>(7) Statements that obligate the contractor to obtain any required permit, pay any required fee, and post any notice required in connection with the home improvement, and guarantee or provide a manufacturer's warranty, if one is available, to guarantee all work and materials for not less than one year after the home improvement is completed;</u>	343 344 345 346 347 348
<u>(8) A statement of any lien or security interest that may be</u>	349

<u>filed against the property;</u>	350
<u>(9) A notice, in at least fourteen-point type, that the owner should not sign the contract if it contains any blank spaces and that the owner is entitled to a copy of the contract at the time the owner signs it;</u>	351 352 353 354
<u>(10) A notice, in at least fourteen-point type, that any change or amendment to the original contract shall be in writing and agreed to by the owner and the contractor;</u>	355 356 357
<u>(11) Any cost of installation or delivery that the contract does not cover;</u>	358 359
<u>(12) The following statement clearly set forth in at least fourteen-point type in immediate proximity to the signature line:</u>	360 361
<u>"State law ensures that you may cancel this transaction at any time prior to midnight of the third business day after you sign. You may cancel using any form of written communication or the form provided."</u>	362 363 364 365
<u>(13) The dated signatures of the owner and the contractor.</u>	366
<u>(B) No home improvement contract shall contain any of the following:</u>	367 368
<u>(1) A clause that limits consumer remedies;</u>	369
<u>(2) A confession of judgment clause;</u>	370
<u>(3) A clause that requires venue or mediation or arbitration in any county other than the one in which the owner resides or the home improvement is performed;</u>	371 372 373
<u>(4) A binding or mandatory arbitration clause unless the owner specifically agrees to the clause and signs the following statement, set forth in fourteen-point type and located in immediate proximity to the arbitration clause: "State law permits a home improvement contract to include a binding or mandatory</u>	374 375 376 377 378

arbitration requirement only if the owner agrees. Sign here if you 379
agree to arbitration as described in this contract. 380

..... (signature of owner)"; 381

(5) A waiver of any right to which the owner is entitled 382
under this chapter, except in an emergency. 383

(C)(1) The down payment for any home improvement shall be not 384
greater than twenty per cent of the total amount of the contract 385
price plus the cost of special-order or custom-made materials, for 386
which the contractor shall provide an itemized list that shows the 387
price of each. 388

(2) The final payment for any home improvement shall not be 389
due until any required inspection or approval by a municipal 390
corporation, township, or county building department has been 391
performed if such an inspection is required. 392

Sec. 4722.07. (A)(1) In addition to any other right to revoke 393
an offer or to terminate or cancel a contract, an owner may cancel 394
a home improvement contract until the later of midnight of the 395
third business day after the owner signs the contract or midnight 396
of the third business day after the contractor provides the notice 397
of cancellation this section requires. To cancel, an owner shall 398
provide a written notice of cancellation to the contractor at the 399
address stated in the contract. The notice may be delivered by 400
mail, personal delivery, telegram, or electronic mail if agreed to 401
by the parties. The date of the notice is the date of the postmark 402
of a mailed notice, the date a telegram is ordered, the date of 403
sending as marked by the sending machine for a notice sent via 404
electronic means, or the date of delivery to the contractor or the 405
contractor's business address for a notice provided by personal 406
delivery. 407

(2) A cancellation notice may be in any written form so long 408

as it indicates the owner's intention not to proceed. The owner 409
may cancel using the form the contractor provides, but is not 410
obligated to use that form. 411

(B) When an owner signs a home improvement contract, the 412
contractor or salesperson shall provide the following form that is 413
completed except for the date and owner's signature: 414

NOTICE OF CANCELLATION 415

..... 416

(contract date) 417

You may cancel this home improvement contract without penalty 418
or obligation, for any reason, at any time prior to midnight of 419
the third business day after the date written above. 420

If you cancel this contract, the contractor will return to 421
you within ten business days any property you have given the 422
contractor, any payments you have made, and any other item of 423
value you have given the contractor. 424

If you cancel, you must make available to the contractor at 425
your residence any goods delivered to you under this contract. If 426
the contractor does not pick them up within thirty calendar days, 427
you may keep or dispose of the goods. You are responsible for the 428
value of any goods you do not make available. 429

To cancel this transaction, send the contractor a signed and 430
dated copy of this cancellation notice or any other written notice 431
indicating that you are canceling. The notice may be sent by mail, 432
personal delivery, telegram, facsimile transmission, or e-mail. 433

Send the notice to: 434

..... 435

(Name of contractor or salesperson) 436

..... 437

(Address of contractor's place of business) 438

not later than midnight of 439

(4) Knowingly violate any applicable building code or sanitary or health law of this state or any political subdivision; 470
471

(5) Use an owner's personal information without the owner's permission for any purpose not directly related to the home improvement or transfer an owner's personal information to a third party for any purpose not directly related to the home improvement; 472
473
474
475
476

(6) Cause or attempt to cause an owner to waive any right this chapter grants. 477
478

Sec. 4722.09. No person shall knowingly do any of the following: 479
480

(A) Make a false or misleading statement or damage an owner's property with purpose to induce, encourage, or solicit an owner to enter into a home improvement contract or to increase an agreed upon contract price for a home improvement; 481
482
483
484

(B) Misrepresent, directly or by implication, an affiliation with or endorsement by a government or third-party organization to induce, encourage, or solicit an owner to enter into a home improvement contract; 485
486
487
488

(C) Alter, without the owner's written consent, a home improvement contract, home loan application or document, promissory note, or any other document incident to entering into or performing a home improvement; 489
490
491
492

(D) Misrepresent or conceal the contractor's or salesperson's real name, business name, or any other identifying information. 493
494

Sec. 4722.10. (A) The attorney general may conduct an investigation if the attorney general has reason to believe, based on complaints, a report from the Ohio home improvement contractor registration board, or the attorney general's own inquiries, that 495
496
497
498

a person has engaged in, is engaging in, or is preparing to engage 499
in an act that violates this chapter or a rule adopted under it. 500

(B) In any investigation pursuant to this section, the 501
attorney general may administer oaths, subpoena witnesses, adduce 502
evidence, and require the production of any book, document, 503
record, or other relevant matter. 504

(C)(1) If the matter to be produced is located outside this 505
state, the attorney general may designate a representative, 506
including an official of the state in which the matter is located, 507
to inspect the matter on the attorney general's behalf. The 508
attorney general may carry out similar requests received from 509
officials of other states. 510

(2) Any person subpoenaed to produce matter pursuant to this 511
section shall make that matter available at a convenient location 512
within this state or the state of the designated representative. 513

(D) Any person subpoenaed under this section may file a 514
petition to extend the day on which the subpoena is to be returned 515
or to modify or quash that subpoena, for good cause shown, in the 516
court of common pleas of Franklin county, the county in this state 517
in which the person resides, or the county in this state in which 518
the person's principal place of business is located. The person 519
may file the petition at any time before the specified return date 520
or within twenty days after the service of the subpoena, whichever 521
is earlier. 522

(E) A person subpoenaed under this section shall comply with 523
the terms of the subpoena unless the court orders otherwise prior 524
to the date specified for return or as extended. If a person fails 525
without lawful excuse to obey a subpoena or to produce relevant 526
matter, the attorney general may apply to the court of common 527
pleas for an order that does one or more of the following: 528

<u>(1) Compels the requested discovery;</u>	529
<u>(2) Adjudges the person in contempt of court;</u>	530
<u>(3) Grants injunctive relief to restrain the person from engaging in conduct that violates this chapter;</u>	531 532
<u>(4) Grants injunctive relief to preserve or restore the status quo;</u>	533 534
<u>(5) Grants other relief that may be required until the person obeys the subpoena.</u>	535 536
<u>(F) The court shall punish any person who violates an order of a court issued under this section in the same manner as a violation of an injunction issued under section 4722.11 of the Revised Code.</u>	537 538 539 540
<u>Sec. 4722.11.</u> <u>(A) The attorney general may bring a civil action in a court of common pleas if it appears that a person has violated this chapter or any substantive rule adopted pursuant to it and may request injunctive relief, a civil penalty, or other appropriate relief. The attorney general shall notify the Ohio home improvement contractor registration board of any action brought pursuant to this section.</u>	541 542 543 544 545 546 547
<u>(B) Any party to a civil action brought pursuant to this section has the right to a jury trial.</u>	548 549
<u>(C)(1) If a court finds a home improvement contractor or salesperson has violated this chapter or a rule adopted pursuant to it, the court may grant a temporary restraining order, a preliminary injunction, an attachment, a permanent injunction without bond, an order for the appointment of a referee or receiver for the sequestration of assets, or any other appropriate relief.</u>	550 551 552 553 554 555 556
<u>(2) For the purposes of this section, each violation of this</u>	557

chapter constitutes a separate violation. 558

(D) Any civil penalty ordered pursuant to this section shall 559
be paid to the state treasurer for deposit in the home improvement 560
contractor consumer protection enforcement fund in the state 561
treasury, which is hereby created. The home improvement contractor 562
registration board shall use the fund solely to give relief to 563
owners who are harmed by registered home improvement contractors 564
who violate this chapter. 565

(E) An action under this section shall be brought not more 566
than two years after the owner discovers or should have discovered 567
the violation, whichever occurs earlier. 568

Sec. 4722.12. (A) An owner injured by a home improvement 569
contractor's or salesperson's violation of this chapter or a rule 570
adopted pursuant to it may bring a civil action against the 571
contractor or salesperson in any court of competent jurisdiction 572
for legal or equitable relief. 573

(B) When an owner commences an action pursuant to this 574
section, the clerk of court shall immediately serve notice upon 575
the attorney general's office. 576

(C) Any party to a civil action under this section has the 577
right to a jury trial. 578

(D)(1) The court may grant an injunction, a temporary 579
restraining order, the greater of actual damages or two hundred 580
dollars for a first violation and five hundred dollars for 581
additional violations, or other appropriate relief for a violation 582
of this chapter or a rule adopted pursuant to it. 583

(2) The court or the jury may award the owner treble damages 584
if it finds a contractor or salesperson fraudulently committed an 585
act or practice that violates this chapter or a substantive rule 586
adopted pursuant to it relative to the performance of a product or 587

the performance of work by the contractor. 588

(E) An action under this section shall be brought not more 589
than two years after the owner discovers or should have discovered 590
the violation, whichever occurs earlier. 591

Sec. 4722.13. An owner may file a complaint pursuant to this 592
chapter with the Ohio home improvement contractor registration 593
board. The board shall consider the facts of the complaint and may 594
take any appropriate action related to a contractor's license, 595
provide monetary relief from the home improvement contractor 596
consumer protection enforcement fund, or recommend further action 597
to the attorney general. 598

Sec. 4722.14. (A) The attorney general may initiate any 599
criminal proceedings permitted under this chapter by presenting 600
evidence of a criminal violation to the prosecuting attorney of 601
any county in which the offense may be prosecuted. If the 602
prosecuting attorney does not prosecute the violation, or if the 603
prosecuting attorney requests, the attorney general may proceed in 604
the prosecution with all the rights, privileges, and powers 605
conferred by law on the prosecuting attorney, including the power 606
to appear before a grand jury and to interrogate witnesses before 607
a grand jury. The attorney general or prosecuting attorney shall 608
report any action filed pursuant to this section to the Ohio home 609
improvement contractor registration board. 610

(B) The powers of the attorney general set forth in division 611
(A) of this section are in addition to any other powers of the 612
attorney general. 613

(C) The remedies and powers available to the attorney general 614
under this section and section 4722.11 of the Revised Code are 615
cumulative and concurrent and the exercise of one remedy or power 616
does not preclude or require the exercise of any other remedy or 617

power. The attorney general need not use any procedure set forth 618
in section 4722.10 or 4722.11 of the Revised Code prior to the 619
exercise of a remedy or power set forth in this section or section 620
4722.11 of the Revised Code. 621

Sec. 4722.15. (A) The powers, remedies, and penalties this 622
chapter provides are in addition to any other power, remedy, or 623
penalty available under federal, state, or local law. 624

(B) Nothing in this chapter preempts any municipal, township, 625
or county ordinance that does not conflict with this chapter. An 626
ordinance does not conflict with this chapter if it provides 627
protection to an owner that is equal to or greater than the 628
protection that this chapter or the rules adopted pursuant to it 629
provide. Compliance with any municipal, township, or county 630
ordinance does not relieve a home improvement contractor or 631
salesperson from complying with this chapter and the rules adopted 632
pursuant to it. 633

(C) This chapter is remedial in nature and shall be liberally 634
construed by the courts of this state, in accordance with section 635
1.11 of the Revised Code. 636

Sec. 4722.99. (A) Any person working as a home improvement 637
contractor who is not registered with the Ohio home improvement 638
contractor registration board is guilty of a first degree 639
misdemeanor for the first offense and a fifth degree felony for 640
each subsequent offense. 641

(B) Any person who knowingly and with fraudulent intent 642
provides a product that does not perform as promised or who 643
performs work that is not to the promised standard is guilty of a 644
fifth degree felony. 645

(C) Committing the acts described in this section during a 646
time of emergency or against a person who is elderly or disabled 647

is a fourth degree felony.

648

Section 2. (A) Not later than June 30, 2007, the Ohio Home Improvement Contractor Registration Board shall establish procedures and a system to register home improvement contractors. The procedures for the first year of registration may differ from the procedures established for registration after the first year.

649

650

651

652

653

(B) On July 1, 2007, the Board shall commence the registration of home improvement contractors.

654

655

Section 3. Sections 4722.03, 4722.06, 4722.07, 4722.08, 4722.13, and 4722.99 of the Revised Code shall take effect January 1, 2008.

656

657

658