

# Why Every Home Contractor Should Fear The Illinois Home Repair & Remodeling Act



**PRESENTED BY**

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Illinois Leading Lawyer 2006

**Online Seminar**

**August 23, 2006**

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**Chicago, IL**

## Welcome

### The Firm

- Established in 1960
- Full service business law firm
- Representing closely-held businesses, entrepreneurs and individuals
- From start-up to succession planning
- “AV” Peer Review Rated

### The Speaker

- SNSFE partner & head of commercial litigation group
- Construction disputes, breach of contract, fraud, breach of fiduciary duty, injunctive relief, collections
- Securities & fiduciary litigation
- Illinois Leading Lawyer

# Introduction

*Introduction*

**Why Every Home Contractor Should Fear  
The Illinois Home Repair & Remodeling Act**

## Scope of Act

## *Scope of Act – Home Residences*

**The Act applies to home residences,  
but not commercial properties.**

## *Scope of Act – Home Residences*

**For remodeling services, repairs or maintenance totaling over \$500**

- Within the home residence**
- Upon the land adjacent to the residence**

## *Scope of Act – Contractors*

**The Act applies broadly to many types of contractors:**

- **Home remodelers**
  - New bathroom
  - Kitchen remodeling
- **Heating & air conditioning**
  - Furnaces & central air conditioning
  - Replacement systems, emergency repairs in winter or summer

## *Scope of Act – Contractors*

- **Windows repairers and installers**
  - Installation of new windows
  - Repair of window frames
- **Plumbers**
  - Sump pump, pipe replacement
- **Carpenters**
  - Decks or porches
  - Wood trim

## **Scope of Act – Contractors**

- **Concrete contractors**
  - Driveways, patios, sidewalks, concrete pads
- **Bricklayers**
  - Chimneys, tuckpointing, brick mailbox
- **Fence contractors**

## *Scope of Act - Exclusions*

### **The Act specifically excludes:**

- **Landscapers**
- **Merchants who install or repair the appliances they sold**
- **Carpet sales, repairs, or cleaning**

# Requirements of the Home Repair & Remodeling Act

## *Requirements of Act - Contract*

- 1) Written contract required between contractor and homeowner for any work over \$1,000.**

## **Requirements of Act - Contract**

### **2) Contract must disclose:**

- **Total cost of the work**
- **Parts and materials particularly listed**
- **Any charge to the homeowner for an estimate**
- **Name & address of business AND individual doing the home repair work**
  - **No P.O. boxes – so customers & lawyers can find the person!**

## *Requirements of Act – Brochure*

### **3) “Consumer Rights Brochure”**

- **For work over \$1,000**
- **Mandatory to give homeowner a written brochure: “Home Repair: Know Your Consumer Rights”**
  - **Must be given PRIOR to execution of written contract by homeowner**

## ***Requirements of Act – Brochure***

- **Lengthy disclosures to safeguard the homeowners against:**
  - **Oral estimates**
  - **Door-to-door salespersons**
  - **High-pressure sales tactics**
  - **Contractors who work for cash**
  - **Not knowing the local municipality's requirements for the work**

## ***Requirements of Act – Brochure***

- **Contract terms to be included:**
  - a) **Contractor's full name, address & telephone number**
  - b) **Description of work to be performed**
  - c) **Estimated starting and completion dates**
  - d) **Total cost of work**
  - e) **Schedule and method of payment**
  - f) **Grounds for termination of the contract**

## *Requirements of Act – Brochure*

- **Signed acknowledgement form:**
  - **Customer must sign and date an acknowledgement form**
  - **The Act specifies what must be in the form**
- **Acknowledgement form:**
  - **Contractor sign and date it also**
  - **Customer gets copy of signed form**

**Contract & acknowledgement form can be used to establish trust with the customer and show the contractor's familiarity with the applicable laws of Illinois for home contractors.**

## *Requirements of Act - Violations*

### **Explicitly against the law:**

- **To make repairs or charge for work before obtaining a signed contract;**
- **Any violation of the Act constitutes a violation of the Consumer Fraud & Deceptive Business Practices Act.**

## ***Requirements of Act - Remedies***

### **Remedies under the Consumer Fraud & Deceptive Business Practices Act:**

- 1) Action for actual damages as a result of a violation of the Act;**
- 2) Reasonable attorney's fees and costs to the prevailing party;**
- 3) Punitive damages ("any other relief which the court deems proper").**

## *Requirements of Act - Remedies*

### **The State's Attorney's response to home contractors' unlawful activities:**

- Filing & prosecuting suits to shut down the business (injunction);**
- Assessing civil penalties of up to \$50,000;**
- Seeking restitution for wronged homeowners.**

## **Requirements of Act – Example of Case Law**

***Central Illinois Elec. Services, L.L.C. v. Slepian,  
358 Ill.App.3d 545, 831 N.E.2d 1169 (3rd Dist. 2005)***

- **Only case to date decided by an Illinois court on the Home Repair & Remodeling Act**
- **This case lends support to the argument that a mechanic's lien is invalid if no enforceable contract exists.**
- **Court of Appeals accepted the argument that the contractor's failure to provide an estimate of the work is a violation of the Act.**

## *Requirements of Act – Example of Case Law*

***Central Illinois Elec. Services, L.L.C. v. Slepian,  
358 Ill.App.3d 545, 831 N.E.2d 1169 (3rd Dist. 2005)***

***“There is no exception under the Act for projects billed on a time and material basis, or projects that become unpredictable in scope and nature. Nothing in the Act precludes a contractor from providing an updated estimate or work order as the circumstances may warrant.”***

# Conclusion

## **Conclusion**

### **As a home contractor, what should you do?**

- **Provide a written estimate**
  - **Provide a written contract**
  - **Be properly insured**
  - **Be properly licensed with the local municipality**
  - **Provide the “Consumer Rights Brochure”**
  - **Create forms for your business to meet each of the Home Repair & Remodeling Act’s requirements**
- \* The Illinois Consumer Fraud Act requires a written “Notice of Cancellation” and oral notice of right to cancel contract within 3 days of execution.**

# QUESTIONS?

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**Info regarding this webinar:**

- It will be available for replay from our website at [www.SNSFE-law.com](http://www.SNSFE-law.com) along with a PDF of the PowerPoint slides within 48 hours.
- A 5-question participant evaluation will be emailed to you.

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