

SENATE COMMITTEE AMENDMENTS

Amendments proposed by Senate Committee on Judiciary C to Original Senate Bill No. 63
by Senator Morrell

AMENDMENT NO. 1

On page 1, at the beginning of line 2, delete "enact R.S. 14:" and insert "amend and reenact R.S. 14:202.1(B) and (C), and to enact R.S. 14:202.1(A)(4) and" and after "property;" delete the remainder of the line

AMENDMENT NO. 2

On page 1, delete lines 3 and 4 and insert "to provide criminal penalties relative to failure to meet certain contractual obligations for the installation and"

AMENDMENT NO. 3

On page 1, delete line 8 and insert the following:

"Section 1. R.S. 14:202.1(B) and (C) are hereby amended and reenacted and R.S. 14:202.1(A)(4) and 202.2 are hereby enacted to read as follows:

§202.1. Home improvement fraud; penalties

A. Home improvement fraud is committed when a person who has contracted to perform any home improvement, or who has subcontracted for the performance of any home improvement, hereinafter referred to as "contractor", knowingly engages in any of the following actions:

* * *

(4) The material failure by a contractor to perform or complete the installation of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), or maintain or repair the system under the terms of a contract.

B. For purposes of this Section, "home improvement" means any alteration, repair, modification, or other improvement to any immovable or movable property primarily designed or used as a residence or to any structure within the residence or upon the land adjacent thereto, **including the installation of a solar electric system or solar thermal system as defined in R.S. 47:6030(C).**

C. The following shall constitute affirmative defenses to a violation of Paragraph (A)(1) of this Section:

~~(1) The work could not be performed due to excessive inclement weather conditions, and the work to be performed is outdoors.~~

~~(2) The work could not be performed due to the failure to receive necessary materials.~~

~~(3) The work could not be performed for justifiable medical reasons which can be verified.~~

~~(4) (2) The work could not be performed due to the inability to access the job site.~~

~~(5) The parties have contracted to provisions which are different than those provided by this statute, and those provisions are clear and unambiguous.~~

~~(6) The contractor has written verification of job completion.~~

~~(7) The work could not be performed due to the inability to obtain proper work permits.~~

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AMENDMENT NO. 4

On page 2, line 5, change "**shall**" to "**may**"

AMENDMENT NO. 5

On page 2, line 6, after "**imprisoned**" delete the remainder of the line and delete line 7 and insert "**for not more than six months.**"

AMENDMENT NO. 6

On page 2, line 10, change "**shall**" to "**may**"

AMENDMENT NO. 7

On page 2, line 11, change "**less**" to "**more**"

AMENDMENT NO. 8

On page 2, at the beginning of line 12, delete "**ninety days nor more than**" and delete "**, or both,**"

AMENDMENT NO. 9

On page 2, between lines 20 and 21, insert the following:

"E. The remedies and rights provided under this Section are in addition to and do not preclude any remedy otherwise available under law, including but not limited to the provisions of R.S. 51:1401, et seq.

F. Any person who is found liable under a civil action brought by the attorney general resulting from a violation of this Section shall be liable to the attorney general for all costs, expenses and fees related to investigations and proceedings associated with the violation, including attorney fees. An action to recover costs, expenses, fees, and attorney fees shall be ancillary to, and shall be brought and heard in the same court as, the civil action resulting from a violation of this Section.

G.(1) The attorney general may examine, or cause to be examined, by agents thereof, without notice, the conditions and affairs of any person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit.

(2) In connection with an examination authorized by this Subsection, the attorney general, or his agents, may examine under oath any person concerning the affairs and business of the person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit.

(3) The person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit shall pay the reasonable costs of the examination authorized by this Subsection, as determined by the attorney general, which funds shall be deposited in the state treasury for credit to the office of the attorney general. Failure to pay the examination fee within thirty days after receipt of demand from the attorney general shall automatically suspend the right of the person to do business in Louisiana until the fee is paid.

H. Nothing in this Section shall be construed to impose civil or criminal liability on any homeowner arising out of a contractor's failure to perform or on any third party purchasing the tax credits described in this Section from any homeowner or contractor."