

Date of Hearing: April 15, 2024

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Timothy Grayson, Chair

AB 2993 (Grayson) – As Amended March 21, 2024

**SUBJECT:** Home improvement and home solicitation: right to cancel contracts: loan financing regulation

**SUMMARY:** Extends the time in which a consumer may cancel a home improvement contract and establishes new requirements for finance lenders making home improvement loans, as defined.

Specifically, **this bill:**

- 1) Extends, by two days, the existing right-to-cancel timeline for home improvement contracts and home solicitation contracts.
- 2) Defines “home improvement loan” as a consumer loan issued by a finance lender, the proceeds of which will be used by the borrower to finance a home improvement or issued to a contractor in connection with a home improvement contract.
- 3) Requires a finance lender, prior to executing a home improvement loan contract and before the right-to-cancel period expires, to obtain a copy of the home improvement contract and call the consumer to orally confirm the property owner received a copy of the loan contract, right-to-cancel form, and the key terms of the loan contract.
- 4) Requires a finance lender to do the following when conducting the oral confirmation call:
  - a) Ask the consumer, at the commencement of the call, if they would prefer to communicate primarily in a language other than English. If the preferred language is not supported by the finance lender, then the transaction cannot proceed.
  - b) Communicate to the consumer specified information, including the key terms of the home improvement loan and their right to have another person present for the call.
  - c) Maintain a recording of the call for at least five years after the loan term ends and make the recording available to the consumer upon request.
- 5) Requires a finance lender to make available to the consumer or property owner information concerning the home improvement loan, as well as other specified information such as account history.
- 6) Prohibits a contractor from requesting or accepting full payment from a finance lender until the contractor has received written confirmation from the property owner acknowledging that the home improvements have been completed in accordance with the contract, have been given final approval by all permitting agencies, and are operational.
- 7) Prohibits a finance lender from releasing home improvement loan funds to a contractor and from seeking payment, other than a down payment, from the property owner until the property owner has certified orally, by means of a confirmation telephone call and a written

completion certificate signed by the property owner, that the home improvements have been completed in accordance with the contract, have been given final approval by all permitting agencies, and are operational.

- 8) Authorizes a consumer to assert against a finance lender who makes home improvement loans all claims and defenses arising out of a transaction and relating to the contractor's failure to resolve the dispute, if the consumer has made a good faith attempt to resolve the dispute with the contractor. A consumer may withhold payment up to the amount of credit withstanding for the home improvement that gave rise to the dispute.

#### **EXISTING LAW:**

##### *Business and Profession Code*

- 1) Establishes the Contractors State License Board (CSLB) to enforce and administer the Contractors State License Law. (Business and Professions Code Sections 7000 et seq.)
- 2) Defines a "home improvement contract" as an agreement whether oral or written, or contained in one or more documents between a contractor and an owner or tenant, as specified, if the work is to be performed in or to the residence or dwelling unit for the purpose of home improvement and includes all labor, services, and materials to be furnished and performed. (Business and Professions Code Section 7151.2)

##### *Civil Code*

- 1) Establishes the Consumer Legal Remedies Act (CLRA), which prohibits certain enumerated unfair methods of competition, and unfair or deceptive acts or practices, in connection with the sale or lease of goods or services. (Civil Code Sections 1750-1784)
- 2) Prohibits a home solicitation of a consumer who is a senior citizen where a loan or assessment is made encumbering the primary residence of that consumer for purposes of paying for home improvements and where the transaction is part of a pattern or practice of violating specified federal laws. (Civil Code Section 1761)
- 3) Establishes the Home Solicitation Sales Act and defines "home solicitation contract or offer" means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars (\$25) or more, including any interest or service charges. (Civil Code Section 1689.5)

##### *Financial Code*

- 1) Establishes the California Financing Law (CFL), which regulates finance lenders and brokers making certain types of consumer or commercial loans. (Fin. Code, div. 9, §§ 22000 et seq.)

**FISCAL EFFECT:** Unknown. This bill is keyed Fiscal.

**COMMENTS:****1) Purpose**

According to the author:

AB 2993 establishes new consumer protections in the home improvement lending industry. These new protections will help prevent situations where a contractor and lender use aggressive solicitation tactics to convince a vulnerable homeowner to agree to a home improvement project they do not need, funded by a costly consumer loan with unclear terms. Among other provisions, AB 2993 extends the time a homeowner has to cancel a home solicitation contract and requires a finance lender to confirm the loan terms with the homeowner. These protections will ensure greater transparency and accountability in the industry

**2) Background: Financing home improvements.**

When taking on a home improvement project, homeowners who cannot pay for the project upfront can access a variety of financing options. These options differ in costs, availability, and appropriateness depending on the type of home improvement project. Options include:

- ***Secured or mortgage-based loans.*** Borrowers have a variety of options that use their existing home and equity as the basis for additional financing. Generally, while this type of financing can be more affordable, it is less available to low- and middle-income homeowners with lower credit scores or limited accrued home equity. Financing options include a cash-out refinance, home equity loan, or home equity line of credit.
- ***Unsecured loans.*** A home improvement loan is a type of unsecured personal loan offered by a bank, credit union, or nonbank lender. These can include construction loans offered by traditional financial institutions as well as installment loans offered through nonbank finance lenders. These loans do not use the home itself as collateral, though a home improvement project such as a solar system installation may include a security interest in the unit itself. Generally, unsecured loans have higher interest rates than secured lending options, but they are more available to borrowers with lower incomes.

Unsecured loans often are disbursed directly to the consumer, who then manages payments to the contractor. However, under some other models, the lender disperses the funds directly to the contractor. This latter model has become more common for energy efficiency or solar system projects.

- ***Alternative options.*** In addition to traditional secured or unsecured loans, a number of alternative financing arrangements and state programs have emerged in recent years. For example, the Property Assessed Clean Energy (PACE) program provides secured financing that is repaid through an annual assessment on the home's property tax bill. Or, the state's GoGreen Home Energy Financing program offers a credit enhancement to

participating credit unions so they offer lower rates and better payback terms for energy efficiency improvements.<sup>1</sup>

### 3) **Background: Home improvement contracts and payment timelines**

A home improvement contract is an agreement between a property owner and a contractor (or an authorized salesperson) over the specifics of a home improvement project and each party's respective obligations. Existing law requires contractors to comply with a multitude of rules concerning that contract. For example, the contract must include a description of all services, materials, and labor to be furnished and performed. The majority of construction-related contracts whose labor and materials are more than \$500 are subject to the requirements of a home improvement contract.

The contract also must specify the costs of the project and the schedule of payments. There must be a contract price and a separate finance charge amount, if applicable. If the contract stipulates a down payment prior to the job's start, that payment cannot exceed \$1,000 or 10% of the contract price, whichever is less. Moreover, if the contract outlines a payment schedule with progress payments, these progress payments cannot exceed the value of the performed work. This prohibition encompasses any advance payments, in whole or in part, from any lender or financier. If the contract provides for payment of a salesperson's commission as part of the contract price, that payment must be made on a pro-rata basis in proportion to the schedule of payments made to the contractor.

The above parameters mean that, in effect, contractors grant credit to customers by doing the work before being paid. This process is intended to prevent a contractor from leaving before the job is complete. Based on conversations with stakeholders, there does not seem to be a universal consensus about what "completion" means, though generally, it means that the home improvement contract is complete, signed off on by relevant permitting authorities, and works as described in the contract.

### 4) **Background: Home improvement lending and solicitation.**

AB 2993 is partly a response to consumer harm resulting from direct solicitation and other aggressive marketing tactics used by certain entities in the home improvement industry. Solicitation is a common strategy for contractors or salespeople to spread awareness about new home improvement opportunities and to present themselves as possible partners. Unfortunately, this process is also prone to abuse, such as when the contractor manufactures urgency to compel the homeowner to make a rushed decision or when the contractor omits or misleads the consumer about the specifics of the project and the financing agreement.

The role of door-to-door solicitation in perpetuating consumer abuses within the home improvement process has long been recognized as a significant problem, and the Legislature has repeatedly had to intervene to protect vulnerable consumers. Those prior efforts are briefly summarized below:

- ***Home Solicitation Sales Act.*** In 1971, the Legislature passed the Home Solicitation Sales Act, giving Californians a time period in which to cancel contracts, including home

---

<sup>1</sup> <https://www.treasurer.ca.gov/caeatfa/cheef/reel/index.asp>

improvement contracts, entered into outside the appropriate trade premises. The purpose of the Home Solicitation Act is to protect consumers against pressure to make an immediate purchasing decision when a salesperson appears at their home, or where the sales pitch is given at a non-business location. Among its many protections, the Home Solicitation Sales Act provides for a right-to-cancel window for any signed contract that originated from a solicitation.

- ***Consumer Legal Remedies Act (CLRA)***. In the mid-1990s, advocates and consumer groups sounded the alarm about increased occurrences of home equity loan abuse. According to a 1994 Consumer Report analysis, a common form of home equity loan abuse involved home improvement projects and door-to-door solicitors, such as when a contractor would arrange for an unaffordable home equity loan to pay for a home improvement project.<sup>2</sup> The Consumer Reports analysis also provided specific examples, including the following:

Nora B, an 80 year old widow, had a first mortgage payment on her home of just \$214.00 per month. She was approached by a home improvement contractor who told her that he could arrange for a loan to pay for new siding for the house and to consolidate \$15,000 of outstanding consumer debt. She was then visited by a representative from the finance company who had her sign the loan application and several other documents, some of which had blank spaces. The lender's representative asked Nora if she could afford to pay \$300 per month, but did not explain the \$32,900 balloon payment at the end of the 5 year loan. Foreclosure proceedings were commenced when Nora fell behind on her monthly payments.

In response to cases like the above, the Legislature enacted new protections under the CLRA for vulnerable consumers targeted by unscrupulous lenders and contractors. Specifically, SB 320 (Petris), Chapter 255, Statutes of 1995, prohibits the “home solicitation” of senior citizens by anyone offering mortgage-financed home improvements where the solicitor’s conduct is “part of a pattern or practice” that violates certain federal consumer protection laws. Importantly, the CLRA provisions apply only to secured mortgage-financed home improvement loans; they do not apply to the vast array of unsecured or alternative financing options available to homeowners today.

- ***PACE Reforms***. In 2007, the first PACE program was created to finance energy efficiencies and renewable energy upgrades to homes and commercial buildings. PACE financing is secured financing tied to the property itself and repaid through annual assessments on the home’s property tax bill. A feature of the program is the use of “solicitor agents” who acted as the primary point of engagement with the homeowner. There were widespread reports of these agents misrepresenting the cost of projects and financing and targeting low-income, fixed-income households. These reports led to major reforms to the PACE program, some of which were the inspiration for this bill and are discussed in greater detail in Comment #5, below.

---

<sup>2</sup> [https://advocacy.consumerreports.org/press\\_release/dirty-deeds-abuses-and-fraudulent-practices-in-californias-home-equity-market/](https://advocacy.consumerreports.org/press_release/dirty-deeds-abuses-and-fraudulent-practices-in-californias-home-equity-market/)

AB 2993 once again revisits the issue of home solicitation. Today, new technologies and software platforms allow contractors and lenders to work closely together to finalize an agreement with a consumer. Housing and Economic Rights Advocates (HERA), this bill's sponsor, has provided committee staff with a number of examples demonstrating how the solicitation process can lead to confusion and harm and leave vulnerable homeowners with a costly loan they do not fully understand. The specifics of these cases bear a remarkable similarity to the 1990s home equity case described above. For example, in one case, a homeowner unknowingly committed to a home improvement loan based on omissions or misstatements from the salesperson:

The salesperson told Mr. C that he would need to sign his tablet to get the process started. The salesperson indicated that by signing the tablet, Mr. C was authorizing them to take the preliminary steps in the transaction, such as checking his credit and writing up the contract. The salesman did not indicate that this signature was binding Mr. C to an existing contract and did not show Mr. C any contract terms. Rather, Mr. C was shown a signature page with no prices, details, or terms written out. At no point did the salesperson inform Mr. C that a loan would be taken out in his name or receive Mr. C's consent to do so. Mr. C signed the tablet authorizing contractor to run his credit and put together loan terms for his review. Mr. C was given no documentation that day or at any subsequent time.

#### 5) **What does AB 2993 do?**

AB 2993 establishes new protections for consumers who take out unsecured home improvement loans and creates obligations for finance lenders making such loans. The bill's premise is that by requiring a home improvement lender to have "skin in the game" in the home improvement process and by making the lender more accountable for the project's outcome, that lender will then take a more proactive role in ensuring consumers understand the loan agreement and in weeding out unreliable or unscrupulous contractors who help facilitate financing agreements.

AB 2993 does not apply to banks or credit unions. Rather, the new rules for lenders apply exclusively to nonbank finance lenders, entities that generally speaking are not subject to the same level of scrutiny as chartered depository institutions.

The bill's sponsor points to a number of problems currently plaguing the unsecured home improvement lending industry. First, as noted above, borrowers are signing up for consumer loans with terms that are not clearly communicated or explained. This confusion can be inadvertent or intentional, but the effect is the same in that consumers feel trapped by a loan they do not understand or believe they agreed to. Second, contractors are not completing the jobs as promised. While current law provides a process for filing a claim with the CSLB, this process can take considerable time to reach a resolution. Third, if the project does not get completed or does not pass inspection, the finance lender nevertheless aggressively pursues payment even as the homeowner tries to resolve the issue with the contractor or the CSLB. These problems, happening in isolation or altogether, can leave the consumer in great financial distress and with few options to move forward.

AB 2993 contains four major reforms. Those reforms are:

- **Extended right-to-cancel window.** AB 2993 extends, by two days, the existing right-to-cancel window for home improvement contracts and home solicitation contracts. This change will allow for more time for a consumer to review the home improvement contract.
- **Oral confirmation call.** AB 2993 requires a finance lender to conduct an oral confirmation call with the prospective borrower prior to finalizing a home improvement loan agreement. This oral confirmation call is intended to make sure that both the lender and the borrower understand the key terms of the loan. Moreover, this oral confirmation call allows the lender to double-check what the salesperson or contractor told the consumer.

While oral confirmation calls are commonly used by home improvement lenders, these calls typically happen as a “welcome call” after the loan agreement has been signed. These welcome calls may or may not occur after the agreement has been signed and before the right-to-cancel window has closed, meaning their efficacy can vary. AB 2993 proposes to change the order of operations by requiring this call to occur before the contract is finalized, similar to existing requirements for PACE administrators.

- **New payment timelines.** AB 2993 creates two new limitations on when funds can move between parties. The first limitation prohibits the contractor from requesting or accepting “full” payment from the finance lender until the contractor has received a written confirmation from the owner acknowledging the home improvement project has been completed in accordance with the contract, final approval has been provided by all permitting agencies, and the home improvement is operational. This is in line with existing rules prohibiting payment until the project is completed, but it adds more specificity for just what “completion” actually means.

The second limitation is placed on the finance lender. Specifically, AB 2993 prohibits a finance lender from releasing home improvement loan funds to the contractor (and requesting payment from the consumer) until the property owner has certified orally and in writing that the home improvements have been completed in accordance with the contract, have been given final approval by all permitting agencies, and are operational.

- **Claims and defense.** AB 2993 also allows a consumer, if they make a good faith effort to resolve a conflict with a contractor, to assert their claim and defense with the lender after the contractor fails to resolve the conflict. Moreover, the consumer can withhold payment of the amount of credit outstanding for the disputed transaction while the dispute is ongoing. These provisions are lifted from national rules pertaining to credit card and billing disputes under the Truth in Lending Act.<sup>3</sup>

## 6) Policy considerations

As of the publication of this analysis, AB 2993 has not received formal opposition. However, a number of groups have submitted “Support If Amended” letters that highlight concerns they would like to see addressed in future amendments. The author’s office has committed to

---

<sup>3</sup>See <https://www.law.cornell.edu/cfr/text/12/1026.12> and <https://www.govinfo.gov/content/pkg/CFR-2012-title12-vol8/pdf/CFR-2012-title12-vol8-sec1026-12.pdf>

working with these groups to fine-tune the details of the proposal. Those concerns, as paraphrased by committee staff, include:

- ***Reliance on permitting or utility timelines creates unnecessary payment delays.*** AB 2993 contains a number of provisions limiting when both the contractor and the lender are paid until the appropriate permitting authorities have signed off on the project, consistent with the general principle that the property owner should now pay for a project that is complete.

Based on conversations with those in the contracting industry, the impact of delaying payments to and from the borrower until full permitting approval affects different types of projects differently. For many, AB 2993 reaffirms industry best practices and does not represent a major shift. However, industries such as solar express concerns about the long delays by local permitting authorities and even longer periods until utilities hook up the system.

- ***The bill's provisions empower "bad customers" at the expense of contractors and lenders.*** AB 2993 contains a number of provisions meant to give consumers more opportunity to resolve conflicts or seek remedy with either the contractor or the lender. These provisions are intended to help those consumers trapped in a nightmare home improvement project where the job remains incomplete while the lender demands payment.

Stakeholders express concern that these provisions, altogether, swing the pendulum too far in the other direction and will allow bad customers not operating in good faith to try to squirm out of their obligation to pay the contractor or lender.

## 7) Committee amendments

The committee recommends a set of amendments meant to clarify AB 2993's scope and a finance lender's schedule of payments to the contractor.

- ***Amendments description:*** The committee recommends modifying the definition of "home improvement loan" to contain an explicit connection to home solicitation contracts and funds being disbursed directly to the contractor. As currently drafted, AB 2993 could be read as to apply to personal consumer loans that the consumer then uses to pay for a project, on their own, without the lender's knowledge.

The committee also recommends clarifying the timeline of when a finance lender pays a home improvement contractor and collects payments from the property owner. First, amendments would specify that payments to the contractor would be consistent with existing rules around progress payments. Second, the committee recommends a separate provision that allows up to 85% of funds to be released to a contractor between when the project is completed, but not signed off by permitting authorities. However, the remaining 15% of the funds is contingent on permitting approval and the improvement, such as solar, becoming operational. Under these amendments, the lender would collect payment from the borrower when the improvement is fully operational and signed off by permitting agencies and connected by the utility, if applicable.



- *Proposed amendments:*

**Financial Code Section 22205 is amended as follows:**

22205. **(a) (1)** “Home improvement loan” means a consumer loan issued by a finance lender subject to this division, the proceeds of which will be used by the borrower to finance a home improvement, as defined in Section 7151 of the Business and Professions Code, or issued disbursed to a contractor in connection with a home improvement solicitation contract, **as defined in Section 1689.5 of the Civil Code, to finance a home improvement,** as defined in Section 7151~~4.2~~ of the Business and Professions Code.

**(2) “Home improvement loan” shall not include a PACE assessment, as defined in Section 22015.**

**Financial Code Section 22332.1 is amended as follows:**

A finance lender who makes a home improvement loan shall not release funds to the home improvement contractor ~~and shall not seek any payment~~, other than the downpayment allowed under Section 7159 of the Business and Professions Code or **those payments consistent with Section 7159.5(a) (4) and (5) of the Business Code,** ~~from the property owner until~~ unless the property owner has certified orally, by means of a confirmation telephone call, and a written confirmation signed ~~in writing, by means of a completion certificate signed~~ by the property owner, that the home improvements ~~contracted~~ **for which the payment is being made** have been completed in accordance with the contract.

**(b) Notwithstanding subdivision (a), no more than 85 percent of the funds shall be released to the home improvement contractor, and no payment shall be sought from the consumer, until the work** has, ~~have~~ been given final approval by all permitting agencies, and are operational. A solar energy system shall not be deemed ~~complete~~ operational until after the property owner confirms the utility supplying electricity has been connected to the solar energy system, the utility supplying electricity grants permission to operate the solar energy system, and the property owner confirms the solar energy system is functioning.

## 8) Support

AB 2993 is sponsored by HERA and supported by legal aid groups, consumer groups, and economic justice advocates. Their letter states:

AB 2993 is a crucial step towards addressing the abuses and harm that arises from finance lenders using contractors to market their loans for home improvements, signing homeowners up electronically (often without their knowledge or informed consent), and then releasing the funds directly to the contractor without taking steps to ensure the work has been finished properly.

Because of the inherent likelihood of abuse, existing law provides special protections for “home solicitation contracts”, those that are negotiated outside the

contractor's place of business, such as through door-to-door sales. Unfortunately, the law does not adequately address the role of lenders who finance these improvements, often leaving consumers vulnerable. Aggressive marketing tactics and door-to-door solicitation often lead homeowners to agree to projects they may not necessarily need, funded by costly unsecured consumer loans with opaque terms. Furthermore, when projects are left incomplete or poorly executed, homeowners have limited recourse with the finance lender who is seeking repayment of the loan for substandard or incomplete work.

#### 9) **Support if amended**

The California Solar and Storage Association (CALSSA) and the Solar Energy Industries Association (SEIA) have taken a Support If Amended position on AB 2993. They write:

Consumer protection is a paramount issue for both of our associations. We believe the vast majority of solar industry professionals, be they contractors or solar financiers, comply with all aspects of the law. However, there are some consumers that have been negatively harmed because of unscrupulous actors and AB 2993 is a very worthwhile effort to help to mitigate this. We are wholly supportive of the main objectives of the bill, but we have some modifications that, when implemented, will result in achieving the same consumer protections desired by the Chairman while avoiding the unintended consequences of making rooftop solar more expensive for Californians and hurting small contractors

Their letter requests changes related to the timelines for payments and the oral confirmation call and additional guardrails and due process protections for lenders in Section 10 of the bill, which allows customers to assert a claim and defenses against a home improvement lender.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Low-income Consumer Coalition  
Consumer Advocates Against Reverse Mortgage Abuse  
Consumer Federation of California  
East Bay Community Law Center  
Haven Neighborhood Services  
Housing and Economic Rights Advocates (HERA)  
National Consumer Law Center, INC.  
National Housing Law Project  
Public Counsel  
Rise Economy

##### **Support If Amended**

California Solar & Storage Association  
Solar Energy Industries Association

**Analysis Prepared by:** Luke Reidenbach / B. & F. / (916) 319-3081