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Another look at the Pennsylvania Home Improvement Consumer Protection Act

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Home renovation projects have become more expensive in recent years. According to The Home Depot, the average price for a minor kitchen renovation is $20,800; a major kitchen renovation averages $62,200 and an upscale kitchen remodel averages $123,000. The increase in project price also comes with increased risk to the contractor performing the work. Now, more than ever, contractors must use a well-drafted contract that protects their business and is compliant with consumer protection laws.

The Pennsylvania Home Improvement Consumer Protection Act (HICPA) mandates that any contractor or subcontractor who works on residential improvements must be registered as a home improvement contractor with the commonwealth. HICPA also imposes numerous terms into prime contracts. In total, there are dozens of rules and limits on the specific terms of a contract, and even the best-intentioned contractors often fail to satisfy one or more of the criteria. Finally, violation of HICPA can cause major problems, ranging from voiding of contracts to potential criminal charges. HICPA covers essentially all types of renovations and home improvements, including additions, remodels, driveways, roofing and swimming pools.

Nearly all jurisdictions have some variation of consumer protection laws that govern home improvement work. The Maryland Home Improvement Law mandates all home improvement contractors to be licensed and places similar restrictions on prime contract terms. Further, Maryland has a Door-to-Door Sales Act that places restrictions on sales associates. Just as in Pennsylvania, a failure to abide by these acts may render the contract unenforceable and, in rare circumstances, could result in criminal charges.

Some contract clauses are not as heavily scrutinized. For example, payment terms, warranties, and certain clauses governing differing site conditions, allowances, alternates, and changes can be tailored to a certain extent to ensure clear, enforceable agreements. Also, the subcontracts for trade work are not as closely governed; thus, master subcontracts and stronger terms can be negotiated between subcontractors and vendors.

Seek legal counsel

Now that renovations often cost six figures, it is important that contractors consult with legal counsel to properly allocate risk and protect their business. Even if your contract currently complies, it is recommended to review and update your standard contracts (both residential and commercial) every two years to ensure that the language is kept current and that the contract still achieves your business goals.

Saxton & Stump attorneys Ron Pollock and Matt Chabal are available to discuss HICPA compliance and how our Construction Law Group can assist with contract reviews to allocate risk and protect your business.

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