

House Bill 1389

By: Representatives Greene-Johnson of the 60th, Post 3, Thompson of the 69th, Post 1, Stokes of the 72nd, Thomas of the 43rd, Post 1, Hugley of the 113th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated,
2 relating to crimes involving theft, so as to define and provide punishment for certain crimes
3 relating to repairs or improvements to real property; to require written contracts for certain
4 contracts for repairs or improvements; to define the crime of accepting or attempting to
5 enforce collection without a written contract; to define the crime of willfully failing to
6 complete a contract for repairs or improvements; to provide for penalties and enforcement;
7 to provide for related matters; to provide for an effective date and applicability; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to
12 crimes involving theft, is amended by adding after Code Section 16-8-15 a new Code Section
13 16-8-15.1 to read as follows:

14 "16-8-15.1.

15 (a) Any contract for repairs or improvements to real property for the price of \$500.00 or
16 more is not enforceable by way of action or defense unless there is some writing sufficient
17 to indicate that a contract has been made between the parties and signed by the party
18 against whom enforcement is sought or by his or her authorized agent or broker.

19 (b) Any person who as the purported contractor or on behalf of the purported contractor
20 accepts any payment for, or seeks to enforce payment of, a purported verbal contract to
21 perform repairs or improvements to real property for the price of \$500.00 or more shall
22 upon conviction be guilty of a misdemeanor.

23 (c) Any person who as a contractor or purported contractor or on behalf of a contractor or
24 purported contractor accepts or receives any funds for any repairs or improvements to real
25 property and who willfully fails to complete or make a good faith attempt to complete such
26 repairs or improvements shall upon conviction be guilty of a felony and be punished by

1 imprisonment for not less than two nor more than ten years, except that if the funds
2 received are less than \$500.00, such person shall upon conviction be guilty of a
3 misdemeanor.

4 (d) The provisions of Article 1 of Chapter 14 of Title 17 relative to restitution to their
5 victims by those found guilty of crimes shall be liberally applied to make whole victims
6 of the offenses defined in this Code section.

7 (e) No felony prosecution shall be commenced under subsection (c) of this Code section
8 without proof of a written contract to perform the repairs or improvements.

9 (f) It shall be unlawful for any person who has been convicted of a felony offense under
10 subsection (c) of this Code section to thereafter in any manner engage in this state in the
11 business of providing repairs or improvements to real property. Any person who violates
12 this subsection shall upon conviction be guilty of a felony and be punished by
13 imprisonment for not less than two nor more than ten years.

14 (g) The offense specified subsection (c) of this Code section shall not be merged with the
15 offense specified in Code Section 16-8-15, and neither offense shall be a lesser included
16 offense of the other."

17 **SECTION 2.**

18 This Act shall become effective on October 1, 2004, and shall apply only with respect to
19 transactions entered into on or after that date. Any transaction entered into prior to that date
20 shall not be affected by this Act and shall continue to be governed by prior law.

21 **SECTION 3.**

22 All laws and parts of laws in conflict with this Act are repealed.