

**Required Written Notice to Consumers of Their “3-Day Right To Cancel”
Certain Residential or Home Improvement Contracts,
Remodeling Contracts and Home Solicitation Contracts
Under California Consumer and Construction Laws.**

Property owners who enter into oral or written contracts for certain services for the repair, restoration or improvement of a residence, including Home Remodeling or Home Improvement Contracts, for work on “residential” property, or certain other service and purchase contracts for other goods at their residence, have legal rights to get out of those contracts during a short grace period after signing or entering into the Contract.

Those rights apply where the Contract is entered into at some location other than the Contractor’s or seller’s regular offices or sales facility, and the consumer possibly may have been pressured into signing the Contract.

California Civil Code requires that - at the time the Contract is entered into - the Contractor or Seller must give the property owner/purchaser/customer written notice of their Right To Cancel the contract. The property owner must also be given a form for cancellation of the Contract.

The Right To Cancel lasts for three (3) or seven (7) days from receipt of the written Notice of Right To Cancel, depending on whether or not the Contract is for ordinary remodeling work or for work arising from a publicly declared catastrophe or state of emergency, such as after an earthquake or major fire, and the like.

If the Notice of Right To Cancel is not provided by the Contractor or Seller, the Contract may be cancelled at any time up until three (3) or seven (7) days after the property owner or consumer receives the Notice of Right to Cancel, even if the work has already been completed!

If the buyer/homeowner has not received the required Notice of his or her Three Day Right to Cancel, then the contract may be cancelled at any time until the required form of notice thereof is provided to them.

“[T]he buyer has the right to cancel a home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code until midnight of the third business day after the buyer receives a signed and dated copy of the contract or offer to purchase that complies with Section 1689.7 of this code.” (Emphasis added)

Civil Code § 1689.6. See also, *Handyman Connection of Sacramento, Inc. v. Sands*, supra, 123 Cal. App. 4th at 882.

“Because the instant contract did not contain the required notice giving the Buyer a right to cancel within three days, the statute technically extended] indefinitely (until the Seller complied with the notice requirement) the Buyer's right to cancel (Civ. Code, § 1689.7,

subd. (e).)” (Emphasis added)

Beley v. Municipal Court (1979) 100 Cal. App. 3d 5, 8.

Once the Contract is timely cancelled or rescinded per these statutes, the Contractor or “Seller” must return all money and other property that the property owner paid to him or her on the Contract and cancel any outstanding loan, note or Deed of Trust:

(a) . . . within 10 days after a home solicitation contract or offer has been canceled, the seller must tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.

(b) If the downpayment includes goods traded in, the goods must be tendered in substantially as good condition as when received.

(c) Until the seller has complied with the obligations imposed by Sections 1689.7 to 1689.11, inclusive, the buyer may retain possession of goods delivered to him by the seller and has a lien on the goods for any recovery to which he is entitled.”

Civil Code § 1689.10.

Only AFTER the Contractor or Seller has returned all he or she received, only then must the property owner or homeowner (or the “buyer”) return things provided by the Contractor per the terms of the Contract, such as removal equipment, appliances, etc., to the extent possible.

Obviously, a new concrete foundation or other permanent improvements could not reasonably be returned to the Contractor.

“(a) . . . within 20 days after a home solicitation contract or offer has been canceled, the buyer, upon demand, must tender to the seller any goods delivered by the seller pursuant to the sale or offer, but he is not obligated to tender at any place other than his own address. If the seller fails to demand possession of goods within 20 days after cancellation, the goods become the property of the buyer without obligation to pay for them.

(b) The buyer has a duty to take reasonable care of the goods in his possession both prior to cancellation and during the 20-day period following. During the 20-day period after cancellation, except for the buyer's duty of care, the goods are at the seller's risk. . . .”

Civil Code § 1689.11.

And if the Contractor has performed any work prior to the Cancellation, such as where

the
Notice of Right To Cancel is received late, or is never received prior to the completion of some
or
all of the construction work, the Contractor is entitled to NO MONEY for performing that
work!!!

“(c) If the seller has performed any services pursuant to a home solicitation contract or offer prior to its cancellation, the seller is entitled to no compensation. If the seller's services result in the alteration of property of the buyer, the seller shall restore the property to substantially as good condition as it was at the time the services were rendered.”

Civil Code § 1689.11.

Thus, it is quite important for Contractors to be aware of and abide by these Laws.

And property owners and homeowners should also take note of these laws, which were designed for their protection, and to allow them to think about get out of contracts that they might have entered into due to high pressure sales tactics or other devious conduct.

Certain other consumer contracts for goods and services.

Because these laws are still being interpreted and explained by the Courts, legal advice should be immediately sought should you believe you might be subject to or benefitted by one of these laws.

N.B. The contents of this Article do not constitute legal advice or create an attorney-client relationship, and you may not rely on it without seeking legal advice regarding your particular situation and contract from a competent construction lawyer or consumer rights attorney.

Please also note that statutes and case law are frequently changing and these materials may become outdated.

For further information on this topic and how the current law may apply to your particular project and issues, [Contact Us](#) via email, phone (415)788-1881 or visit our website at www.wolfflaw.com in contract information.