



# Inform Clients of Their Right to Cancel

by Quenda Behler Story

What's the worst turn of events you can imagine on a remodeling job? Consider this horrible example: You accept a downpayment, buy the materials, do the work, and pay the subcontractors, but when you submit the bill, your client tears it up.

"You didn't give me notice of my right to rescind or cancel the contract," the client says, "so I don't have to pay you. And I want a refund of the money I already paid."

Is this only a bad dream that could not possibly happen? If you believe that, you *are* dreaming.

## Three-Day Wait

Rescission and cancellation are not exactly the same, although if you don't do what you're supposed to, the penalty is the same: The customer doesn't have to pay. What you're supposed to do is inform your clients that under federal law (and state law,

### Notice of Right of Rescission

Notice to customer required by Federal law:

You have entered into a transaction on \_\_\_\_\_ which may result in  
(date)

a lien, mortgage, or other security interest on your home. You have a legal right under Federal law to cancel this transaction, if you desire to do so, without any penalty or obligation within three business days from the above date or any later date on which all material disclosures required under the Truth in Lending Act have been given to you. If you so cancel the transaction, any lien, mortgage, or other security interest on your home arising from this transaction is automatically void. You are also entitled to receive a refund of any downpayment or other consideration if you cancel. If you decide to cancel this transaction, you may do so by notifying

by mail or telegram sent not later than midnight of \_\_\_\_\_ . You may  
(date)

also use any other form of written notice identifying the transaction if it is delivered to the above address not later than that time. This notice may be used for that purpose by dating and signing below.

I hereby cancel this transaction.

\_\_\_\_\_ (date) \_\_\_\_\_ (customer's signature)

*See reverse side for important information about your right of rescission.*

Receipt is herewith acknowledged of the foregoing NOTICE, the undersigned CUSTOMERS having received copies thereof, this the \_\_\_\_ day of \_\_\_\_\_, 19\_\_

\_\_\_\_\_ Customer \_\_\_\_\_ Customer

Standard forms like the one pictured here from Home-Tech (800/638-8292) are available to explain rescission and cancellation laws. The form by itself, however, is not enough: You must tell your clients about their rights to rescind or cancel and you may also need to include specific language in your contract. Check with your Attorney General's office for complete disclosure requirements.

if your state has additional requirements), they have three days in which to cancel or rescind the contract they have signed with you. This requirement applies if you are in one of the two situations that triggers these rights.

**Rescission.** The right of rescission is triggered when you, the builder or remodeler, have a security interest, such as a mortgage, in your client's home (something for all of you who are considering doing your own financing to think about). The right of rescission is also triggered if you have a right to put a lien, such as a mechanic's lien, on the customer's home if the customer doesn't pay.

In both cases, you must tell your customer three things in writing:

- You must tell clients that they can rescind the contract within three days of signing it.
- You have to describe exactly how the client can rescind.
- You must explain to your clients that if they don't pay after the work is finished, you can put a lien on their home or foreclose on the mortgage (if you have one).

Your clients must sign and date the document that tells them these things. (Otherwise, how could you prove you told them?) The document should have the start date for the three-day period, so you and your client know when that period expires. You must also give each party to the contract two copies of the contract. If you're dealing with a married couple, for example, they get a total of four copies.

**Cancellation.** The right of cancellation is triggered when a deal that is made in the customer's home includes extended (more than four) payment arrangements. After signing, the client has the right to cancel the contract anytime during the next three business days.

You must tell clients how to cancel, and the law is very specific about how you must do it. In addition to orally telling them, your contract must include in 10-point boldface type a specific statement about the right of cancellation. You must also give the customer a written notice of the date that the right expires.

Include this language in the body of

your contract: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation for an explanation of this right."

### Get It In Writing

Your clients must cancel or rescind in writing. If they mail notice within the three-day period, and you don't get it for awhile, that's your tough luck. Consider delaying the start of jobs until the rescission or cancellation period has expired.

**Emergencies excepted.** If the contract is drawn in response to an emergency, such as a fire or flood, the customer can waive the three-day rescission or cancellation period, but must do so in writing.

**Standard forms.** Many stationery companies and construction service businesses sell preprinted forms for cancellation and rescission. But before using them, you should find out if your state has additional rules about rescission or cancellation. If so, it won't be enough to meet the federal requirements; you must also meet the state requirements.

Remember: Clients who have rights of rescission or cancellation, and whom you do not properly notify about those rights, can accept the benefits of your work without paying you. Never mind that the clients may have known about those rights all along (obviously they knew or they wouldn't be exercising those rights to avoid paying for the job): If you did not tell them in the way the law says you must, they do not have to pay. And that right not to pay you, or to ask for a refund of what they did pay, lasts for three years. Your clients can exercise these rights long after the job is complete.

On the other hand, if you properly inform people of their rights, and if they do not exercise those rights during the three-day period, that's the end of it. You don't have to worry about it anymore. Which position would you rather be in? ■

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