As Amended by Senate Committee

Session of 2019

SENATE BILL No. 78

By Committee on Judiciary

AN ACT concerning consumer protection; relating to assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:
(1) "Assignment" means a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate;
(2) "residential contractor" means a person in the business of contracting or offering to contract with an owner or possessor of residential real estate to:
(A) Repair or replace a roof system or perform any other exterior repair, replacement, construction or reconstruction work on residential real estate;
(B) perform interior repair or exterior cleanup services on residential real estate;
(C) arrange for, manage or process the work referred to in subparagraph (A) or (B); or
(D) serve as a representative, agent or assignee of the owner or possessor of residential real estate;
(3) "residential real estate" means a new or existing building, including a detached garage structure, constructed for habitation by at least one but no more than four families; and
(4) "roof system" means and includes roof coverings, roof sheathing, deck, roof ventilation, roof weatherproofing and insulation.

(b) (1) An assignment may authorize a residential contractor to be named as a copayee for the payment of benefits under a property and casualty insurance policy covering residential real estate.
(2) An assignment shall include a statement that the residential contractor has made no assurances that the claimed loss will be fully covered by an insurance contract and shall include the following notice in capitalized 14-point type:
"AN ASSIGNMENT OF RIGHTS OR BENEFITS IS VOLUNTARY. YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS THAT YOU HAVE UNDER YOUR INSURANCE POLICY. WITH AN
ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE
ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU,
THE INSURED—HOMEOWNER POLICY HOLDER, HAVE UNDER
YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND
THIS DOCUMENT BEFORE SIGNING.
THE INSURER MAY ONLY PAY FOR THE COST TO REPAIR OR
REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL,
SUBJECT TO THE TERMS OF THE POLICY."

(3) The residential contractor shall provide the assignment to the
insurer of the residential real estate within three days after the
assignment is signed.

(4) An assignment shall provide that, in addition to any other right to
revoke, the named insured has the right to cancel the assignment within
five business days after execution. The residential contractor shall provide
the assignment to the insurer of the residential real estate within five-
business days after the five-day right to cancel period expires.

(4)(5) An assignment shall not:
(A) Impair the interest of a mortgagee listed on the declarations page
of the property and casualty insurance policy that is the subject of the
assignment; or
(B) prevent or inhibit an insurer from communicating with the named
insured or mortgagee listed on the declarations page of the property and
casualty insurance policy that is the subject of the assignment.

(c) The commissioner of insurance shall strictly enforce the
provisions of K.S.A. 40-2404(9)(n), and amendments thereto, which
requires insurers to promptly provide a named insured a reasonable
explanation of the basis in the insurance policy in relation to the facts or
applicable law for denial of a claim or for the offer of a compromise
settlement.

(d) An assignment is void if the residential contractor:
(1) Violates any provision of this section; or
(2) is not in compliance with any of the requirements of the Kansas
roofing registration act.

(e) Any violation of this section is a deceptive act or practice under
the Kansas consumer protection act.

(f) This section shall be a part of and supplemental to the Kansas
consumer protection act.

Sec. 2. This act shall take effect and be in force from and after its
publication in the statute book.