

HOUSE BILL No. 2307

By Committee on Insurance

2-11

1 AN ACT enacting the Kansas residential roofing act.

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

4 Section 1. Sections 1 through 8, and amendments thereto, shall be
5 known and may be cited as the Kansas residential roofing act.

6 Sec. 2. As used in the Kansas residential roofing act, unless the
7 context directly indicates otherwise:

8 (a) "Residential roofing contractor" means a person or other entity in
9 the business of contracting, or offering to contract with an owner to repair
10 or replace roof systems on residential real estate, including roof
11 coverings, roof sheathing, roof weatherproofing and insulation.

12 (b) "Residential real estate" means a new or existing building
13 constructed for habitation by one to four families, including detached
14 garages.

15 Sec. 3. (a) A residential roofing contractor providing roofing goods
16 and services to be paid by an insured from the proceeds of a property or
17 casualty insurance policy shall not advertise or promise to pay or rebate
18 all or any part of an applicable insurance deductible. For the purposes of
19 this section, rebating the insurance deductible includes granting any
20 allowance against the fees to be charged or paying to the insured any
21 form of compensation, for any reason, including, but not limited to,
22 permitting the residential roofing contractor to display a sign or any other
23 type of advertisement at the insured's premises, or paying an insured for
24 providing a letter of referral or recommendation.

25 (b) If a residential roofing contractor violates this section:

26 (1) The insurer to whom the insured tendered the claim shall not be
27 obligated to consider the estimate prepared by the residential roofing
28 contractor; and

29 (2) the insured or the applicable insurer may bring an action against
30 the residential roofing contractor in a court of competent jurisdiction for
31 damages sustained by the insured or insurer as a consequence of the
32 residential roofing contractor's violation.

33 Sec. 4. A person who has entered into a written contract with a
34 residential roofing contractor to provide roofing goods and services to be
35 paid by the insured from the proceeds of a property or casualty insurance
36 policy has the right to cancel the contract within 72 hours after the

1 insured has been notified by the insurer that all or any part of the claim
 2 has been denied. Cancellation is evidenced by the insured giving written
 3 notice of cancellation to the residential roofing contractor at the address
 4 stated in the contract. Notice of cancellation, if given by mail, is effective
 5 upon deposit into the United States mail, postage prepaid and properly
 6 addressed to the residential roofing contractor. Notice of cancellation
 7 need not take a particular form and is sufficient if it indicates, by any
 8 form of written expression, the intention of the insured not to be bound
 9 by the contract.

10 Sec. 5. Before entering a contract referred to in section 4, and
 11 amendments thereto, the residential roofing contractor shall furnish the
 12 insured:

13 (a) A statement in boldface type of a minimum size of 10 points, in
 14 substantially the following form: “You may cancel this contract at any
 15 time within 72 hours after you have been notified that your insurer has
 16 denied your claim to pay for the goods and services to be provided under
 17 this contract. See attached notice of cancellation form for an explanation
 18 of this right”; and

19 (b) a fully completed form in duplicate, captioned, “NOTICE OF
 20 CANCELLATION;,” which shall be attached to the contract but easily
 21 detachable, and which shall contain in boldface type of a minimum size
 22 of 10 points, the following statement:

23 “NOTICE OF CANCELLATION.

24 If your insurer denies all or any part of your claim to pay for goods
 25 and services to be provided under this contract, you may cancel the
 26 contract by mailing or delivering a signed and dated copy of this
 27 cancellation notice or any other written notice to (name of contractor) at
 28 (address of contractor’s place of business) at any time within 72 hours
 29 after you have been notified that your claim has been denied. If you
 30 cancel, any payments made by you under the contract will be returned
 31 within 10 business days following receipt by the contractor of your
 32 cancellation notice.

33 I HEREBY CANCEL THIS TRANSACTION.

34
 35 _____
 36 (date)

37
 38 _____
 39 (Insured’s signature)”

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 41 Sec. 6. Within 10 days after a contract referred to in section 4, and
 42 amendments thereto, has been cancelled, the residential roofing
 43 contractor shall tender to the insured any payments made by the insured

1 and any note or other evidence of indebtedness. If, however, the
2 residential roofing contractor has performed any emergency services,
3 acknowledged by the insured in writing to be necessary to prevent
4 damage to the premises, the residential roofing contractor is entitled to
5 the reasonable value of such services.

6 Sec. 7. (a) Whenever the attorney general or a county or district
7 attorney has reason to believe that any person is in violation of the
8 Kansas residential roofing act, and the proceedings would be in the
9 public's best interest, the attorney general or county or district attorney
10 may bring an action against the person to restrain, by temporary or
11 permanent injunction, that practice.

12 (b) Whenever any court issues a permanent injunction to restrain and
13 prevent violation of the this act, the court may direct that the defendant
14 restore to any person and interest any moneys or property, real or
15 personal, which may have been acquired by means of violation of the this
16 act, under terms and conditions to be established by the court.

17 (c) Any person who violates the this act shall be liable for a civil
18 penalty as provided in subsection (a) of K.S.A. 50-636, and amendments
19 thereto, which civil penalty shall be in addition to any other relief which
20 may be granted.

21 Sec. 8. Any violation of this act is an unconscionable act or practice
22 under the provisions of the Kansas consumer protection act and shall be
23 subject to any and all of the enforcement provisions of the Kansas
24 consumer protection act.

25 Sec. 9. This act shall take effect and be in force from and after its
26 publication in the statute book.

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