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Chapter No. 177
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SENATE BILL NO. 2707

Originated in Senate *Liz Welch* Secretary

SENATE BILL NO. 2707

AN ACT TO CREATE THE "INSURANCE BENEFITS ROOFING REPAIR CONSUMER PROTECTION ACT"; TO DEFINE TERMS USED IN THE ACT; TO REQUIRE A RESIDENTIAL ROOFING CONTRACTOR TO FURNISH TO AN INSURED A NOTICE OF CANCELLATION BEFORE SIGNING AN INSURANCE BENEFITS RESIDENTIAL ROOF SYSTEM REPAIR CONTRACT; TO PROVIDE THAT A PERSON WHO HAS ENTERED INTO AN INSURANCE BENEFITS RESIDENTIAL ROOF SYSTEM REPAIR CONTRACT MAY CANCEL THE CONTRACT WITHIN A CERTAIN NUMBER OF DAYS OF RECEIVING NOTICE FROM THE INSURER THAT HIS CLAIM IS NOT A COVERED LOSS UNDER THE POLICY; TO PROVIDE CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT; TO AMEND SECTION 9 OF SENATE BILL NO. 2796, 2014 REGULAR SESSION, TO REVISE THE EFFECTIVE DATE OF A CERTAIN PROVISION IN THE BILL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Title. Sections 1 through 6 of this act shall be known as the "Insurance Benefits Roofing Repair Consumer Protection Act."

SECTION 2. Applicability. Section 1 through 6 of this act applies to a residential roofing repair contract under which a person has contracted with a residential roofing contractor to provide goods or services expected to be paid, in whole or in part, from the benefits of a property and casualty insurance policy.

SECTION 3. Definitions. As used in Sections 1 through 6 of this act:

(a) "Emergency services" means services performed with the express permission of the insured and that are immediately necessary for:

(i) The preservation of the residential real estate; or

(ii) The health of the insured, owner or possessor.

"Emergency services" does not include inspection of the residential roof system or an estimation of the repair costs.

(b) "Insured" means an insured whose name appears on the face of the property and casualty insurance policy that provides coverage for the residential roof system to be repaired.

(c) "Residential roofing contractor" means a person or entity contracting or offering to contract with an insured, owner or possessor of a residential roof system to repair or replace a roof system on residential real estate, or any portion thereof, where all or part of the cost is expected to be paid as a benefit of a property and casualty insurance policy.

(d) "Residential" means a new or existing dwelling constructed for habitation by one (1) to four (4) families, including a detached garage.

(e) "Insurance benefits residential roof system repair contract" means a written contract with an insured to repair a

roof system, or any part thereof, on residential real estate, or provide goods and services in connection with such repair, that is to be paid in whole, or in part, under a property and casualty insurance policy.

(f) "Roof system" means roof coverings, roof sheathing, roof weatherproofing and insulation.

SECTION 4. Notice of cancellation. Before signing an insurance benefits residential roof system repair contract with an insured, a residential roofing contractor shall furnish to the insured:

(a) The following statement in at least 10-point boldface type that is attached to the contract:

"You may cancel this insurance benefits residential roof system repair contract at any time within three (3) business days after you have received written notice from your insurance company that all or any part of your claim, or all or part of the services and goods to be provided by this contract, is not a covered loss under your insurance policy. A notice of cancellation form is provided to you with this contract. To cancel this contract under these circumstances, sign and date, and then mail or deliver the attached Notice of Cancellation, or another similar written notice of cancellation, to the contractor within three (3) business days after you have received such written notice from your insurance company. If you cancel, any payments made under this residential roofing system repair contract, except for emergency services and

repairs subsequently approved for payment by the insurance company and already performed by the contractor, will be returned to you within ten (10) business days following receipt by the contractor of your cancellation notice."; and

(b) Duplicate copies of a completed form captioned "NOTICE OF CANCELLATION" that is attached to the contract, is easily detachable, and contains the following in at least 10-point boldface type:

"NOTICE OF CANCELLATION

(Name and address of contractor - to be entered by contractor)

(Date of contract - to be entered by contractor)

(Address of residential real estate to be repaired - to be entered by contractor)

I have been notified by my insurance company that all or any part of my claim, or the services and goods to be provided in the residential roofing system repair contract, is not a covered loss under the insurance policy.

I HEREBY CANCEL THIS TRANSACTION

Please return my prior payments within ten (10) days.

INSURED'S SIGNATURE

DATE"

SECTION 5. Commencement of work -- cancellation. (1) When any residential roofing contractor in an insurance benefits residential roof system repair contract with an insured commences

work before the insured's right to cancel under subsection (2) has expired, the contractor is not allowed to receive payment for such work done before the right to cancel has expired in excess of the scope of work and amount of payment approved by the insurer, if any. The contractor undertakes such work at his own risk that the work may not be covered by the insurance policy.

(2) A person who has entered into an insurance benefits residential roof system repair contract may cancel the residential roof system repair contract within three (3) business days after the insured has received written notice from the insurer in response to an insurance claim filed that all or any part of the claim or residential roof system repair contract is not a covered loss under the insurance policy.

(3) (a) The insured cancels the insurance benefits residential roof system repair contract by giving written notice of cancellation to the residential roofing contractor in person or by mailing it to the address stated in the residential roof system repair contract.

(b) If the notice of cancellation is given by mail, it is effective upon deposit of the notice in the United States mail, postage prepaid, and properly addressed to the residential roofing contractor.

(c) The notice of cancellation is not required to be in a particular form and is sufficient if it expresses in writing an

intention of the insured not to be bound by the insurance benefits residential roof system repair contract.

(4) (a) Within ten (10) days after cancellation of an insurance benefits residential roof system repair contract, the residential roofing contractor shall tender to the insured any payments, partial payments, or deposits made and any note or other evidence of indebtedness.

(b) If the residential roofing contractor has performed any emergency services, the residential roofing contractor is entitled to the reasonable value of such emergency services.

(c) If the residential roofing contractor has performed repairs authorized by the insured that are subsequently approved as to scope and amount as a covered loss by the insurer such that the insured is reimbursed by the insurer, then the residential roofing contractor is entitled to payment for such repairs.

(5) Any provision in an insurance benefits residential roof system repair contract that requires the payment of a fee for anything except emergency services is not enforceable against the insured that has cancelled an insurance benefits residential roof system repair contract under this section.

SECTION 6. Violations. (1) Any residential roofing contractor in violation of Sections 1 through 6 of this act shall be subject to the civil and criminal penalties and remedies under Sections 75-24-19, 75-24-20 and 75-24-23, and may be liable under a private right of action of the consumer.

(2) A violation of Sections 1 through 6 of this act by a residential contractor is an unfair and deceptive act or practice as defined by the Mississippi Consumer Protection Law, Section 75-24-1 et seq.

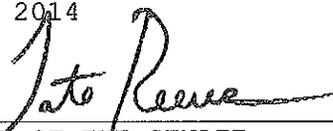
(3) Sections 1 through 6 of this act do not prohibit an insured that is harmed by a deceptive trade practice from commencing a civil action against a residential roofing contractor.

SECTION 7. Section 9 of Senate Bill No. 2796, 2014 Regular Session, is amended as follows:

Section 9. Section 8 of this act shall take effect and be in force from and after July 1, 2014, and the remaining sections of this act shall take effect and be in force from and after July 1, 2015.

SECTION 8. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
April 2, 2014



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR


GOVERNOR

4/10/14

3:28 pm