

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 943

Introduced by McCoy, 39.

Read first time January 11, 2012

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to adopt the Insured Homeowners
- 2 Protection Act; and to provide a duty for the Revisor of
- 3 Statutes.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and
2 may be cited as the Insured Homeowners Protection Act.

3 Sec. 2. For purposes of the Insured Homeowners Protection
4 Act:

5 (1) Catastrophe means a natural occurrence, including,
6 but not limited to, a flood, a drought, an earthquake, a tornado, a
7 windstorm, or a hailstorm, that damages or destroys more than one
8 piece of residential real estate;

9 (2) Residential contractor means a person in the business
10 of contracting or offering to contract with an owner or possessor of
11 residential real estate to (a) repair or replace a roof system or
12 perform any other exterior repair, replacement, construction, or
13 reconstruction work on residential real estate or (b) perform
14 interior or exterior cleanup services on residential real estate;

15 (3) Residential real estate means a new or existing
16 building, including a detached garage, constructed for habitation by
17 at least one but no more than four families; and

18 (4) Roof system means and includes roof coverings, roof
19 sheathing, roof weatherproofing, and insulation.

20 Sec. 3. (1) A person who has entered into a written
21 contract with a residential contractor to provide goods or services
22 to be paid from the proceeds of a property and casualty insurance
23 policy may cancel the contract prior to midnight on the later of the
24 third business day after the person has (a) entered into the written
25 contract or (b) received written notice from the person's insurer

1 that all or part of the claim or contract is not a covered loss under
2 the insurance policy. Cancellation shall be evidenced by the person
3 giving written notice of the cancellation to the residential
4 contractor at the address of the residential contractor's place of
5 business as stated in the contract. Written notice of cancellation
6 may be given by delivering or mailing a signed and dated copy of the
7 written notice of cancellation to the residential contractor at the
8 address of the residential contractor's place of business as stated
9 in the contract. The notice of cancellation shall include a copy of
10 the written notice from the person's insurer to the effect that all
11 or part of the claim or contract is not a covered loss under the
12 insurance policy. Notice of cancellation given by mail shall be
13 effective upon deposit in the United States mail, postage prepaid, if
14 properly addressed to the residential contractor. Notice of
15 cancellation is not required to be in any particular form and is
16 sufficient if the notice indicates, by any form of written
17 expression, the intent of the insured not to be bound by the
18 contract.

19 (2) Within ten days after a contract to provide goods or
20 services to be paid from the proceeds of a property and casualty
21 insurance policy has been canceled by notification pursuant to this
22 section, the residential contractor shall tender to the person
23 canceling the contract any payments, partial payments, or deposits
24 made by the person and any note or other evidence of indebtedness,
25 except that if the residential contractor has provided any goods or

1 services related to a catastrophe, agreed to by such person in
2 writing to be necessary to prevent damage to the premises, the
3 residential contractor shall be entitled to be paid the reasonable
4 value of such goods or services. Any provision in a contract to
5 provide goods or services to be paid from the proceeds of a property
6 and casualty insurance policy that requires the payment of any fee
7 which is not for goods or services related to a catastrophe shall not
8 be enforceable against any person who has canceled a contract
9 pursuant to this section.

10 Sec. 4. A residential contractor shall not promise to
11 rebate any portion of an insurance deductible as an inducement to the
12 sale of goods or services. A promise to rebate any portion of an
13 insurance deductible includes granting any allowance or offering any
14 discount against the fees to be charged or paying an insured or a
15 person directly or indirectly associated with the residential real
16 estate any form of compensation, except for any item of nominal
17 value.

18 Sec. 5. The Revisor of Statutes shall assign sections 1
19 to 4 of this act to Chapter 44.