

LEGISLATIVE BILL 943

Approved by the Governor March 14, 2012

Introduced by McCoy, 39.

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

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

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

(1) 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 or (b) perform interior or exterior cleanup services on residential real estate;

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

(3) Roof system means and includes roof coverings, roof sheathing, roof weatherproofing, and insulation.

Sec. 3. (1) A person who has entered into a written contract with a residential contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract prior to midnight on the later of the third business day after the person has (a) entered into the written contract or (b) received written notice from the person's insurer that all or part of the claim or contract is not a covered loss under the insurance policy. Cancellation shall be evidenced by the person giving written notice of the cancellation to the residential contractor at the address of the residential contractor's place of business as stated in the contract. Written notice of cancellation may be given by delivering or mailing a signed and dated copy of the written notice of cancellation to the residential contractor at the address of the residential contractor's place of business as stated in the contract. The notice of cancellation shall include a copy of the written notice from the person's insurer, if applicable, to the effect that all or part of the claim or contract is not a covered loss under the insurance policy. Notice of cancellation given by mail shall be effective upon deposit in the United States mail, postage prepaid, if properly addressed to the residential contractor. Notice of cancellation is not required to be in any particular form and is sufficient if the notice indicates, by any form of written expression, the intent of the insured not to be bound by the contract.

(2) Within ten days after a contract to provide goods or services to be paid from the proceeds of a property and casualty insurance policy has been canceled by notification pursuant to this section, the residential contractor shall tender to the person canceling the contract any payments, partial payments, or deposits made by the person and any note or other evidence of indebtedness, except that if the residential contractor has provided any goods or services agreed to by such person in writing to be necessary to prevent damage to the premises, the residential contractor shall be entitled to be paid the reasonable value of such goods or services. Any provision in a contract to provide goods or services to be paid from the proceeds of a property and casualty insurance policy that requires the payment of any fee which is not for such goods or services shall not be enforceable against any person who has canceled a contract pursuant to this section.

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

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