LEGISLATIVE BILL 220

Introduced by Harr, 8; Lindstrom, 18.

Read first time January 10, 2017

Committee: Banking, Commerce and Insurance

A BILL FOR AN ACT relating to the Insured Homeowners Protection Act; to amend sections 44-8601 and 44-8602, Revised Statutes Cumulative Supplement, 2016; to redefine a term; to provide contract requirements for assignment of rights and benefits; to require notice as prescribed; to declare certain contracts void; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 44-8601, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-8601 Sections 44-8601 to 44-8604 and sections 3 to 5 of this act shall be known and may be cited as the Insured Homeowners Protection Act.

Sec. 2. Section 44-8602, Revised Statutes Cumulative Supplement, 2016, is amended to read:

44-8602 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;

(c) Arrange for, manage, or process the work referred to in subdivision (1)(a) or (b) of this section; or

(d) Serve as a representative, agent, or assignee of the owner or possessor of 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. A post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate shall be subject to the following requirements:

(1) The assignment shall only 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) The assignment shall be provided to the insurer of the residential real estate within five business days after execution;

(3) The assignment shall include an itemized description of the work to be done and the materials, labor, and fees for repair or replacement of the damaged residential real estate and the total itemized amount agreed to be paid for the work to be performed;

(4) The 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 fourteen-point type:

YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING.

THE ITEMIZED DESCRIPTION OF THE WORK TO BE DONE SHOWN IN THIS ASSIGNMENT FORM HAS NOT BEEN AGREED TO BY THE INSURER. THE INSURER HAS THE RIGHT TO PAY ONLY FOR THE COST TO REPAIR OR REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL.

(5) The assignment shall not impair the interest of a mortgagee listed on the declarations page of the property and casualty insurance policy which is the subject of the assignment; and

(6) The assignment shall not 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.

Sec. 4. Any written contract, repair estimate, or work order prepared by a residential contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy shall include the following notice of the prohibition contained in section 44-8604 in capitalized fourteen-point type which shall be signed by the named insured and sent to the named insured's insurance company prior to payment of proceeds under the applicable insurance policy:
IT IS A VIOLATION OF THE INSURANCE LAWS OF NEBRASKA TO REBATE ANY
PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO
ACCEPT A RESIDENTIAL CONTRACTOR’S PROPOSAL TO REPAIR DAMAGED PROPERTY.
REBATE OF A DEDUCTIBLE INCLUDES GRANTING ANY ALLOWANCE OR OFFERING ANY
DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR
PAYING THE INSURED POLICYHOLDER THE DEDUCTIBLE AMOUNT SET FORTH IN THE
INSURANCE POLICY.

THE INSURED POLICYHOLDER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF
THE DEDUCTIBLE. THE INSURANCE FRAUD ACT AND NEBRASKA CRIMINAL STATUTES
PROHIBIT THE INSURED POLICYHOLDER FROM ACCEPTING FROM A CONTRACTOR A
REBATE OF THE DEDUCTIBLE OR OTHERWISE ACCEPTING ANY ALLOWANCE OR DISCOUNT
FROM THE CONTRACTOR TO COVER THE COST OF THE DEDUCTIBLE. VIOLATIONS MAY
BE PUNISHABLE BY CIVIL OR CRIMINAL PENALTIES.

Sec. 5. A contract entered into with a residential contractor is
void if the residential contractor violates any provision of the Insured
Homeowners Protection Act.

Sec. 6. Original sections 44-8601 and 44-8602, Revised Statutes
Cumulative Supplement, 2016, are repealed.