

SENATE BILL No. 78

By Committee on Judiciary

2-1

1 AN ACT concerning consumer protection; relating to assignment of rights
2 or benefits to a residential contractor under a property and casualty
3 insurance policy insuring residential real estate.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) As used in this section:

7 (1) "Assignment" means a post-loss assignment of rights or benefits
8 to a residential contractor under a property and casualty insurance policy
9 insuring residential real estate;

10 (2) "residential contractor" means a person in the business of
11 contracting or offering to contract with an owner or possessor of
12 residential real estate to:

13 (A) Repair or replace a roof system or perform any other exterior
14 repair, replacement, construction or reconstruction work on residential real
15 estate;

16 (B) perform interior *repair* or exterior cleanup services on residential
17 real estate;

18 (C) arrange for, manage or process the work referred to in
19 subparagraph (A) or (B); or

20 (D) serve as a representative, agent or assignee of the owner or
21 possessor of residential real estate;

22 (3) "residential real estate" means a new or existing building,
23 including a detached ~~garage~~ **structure**, constructed for habitation by at
24 least one but no more than four families; and

25 (4) "roof system" means and includes roof coverings, roof ~~sheathing~~
26 **deck, roof ventilation**, roof weatherproofing and insulation.

27 (b) (1) An assignment may authorize a residential contractor to be
28 named as a copayee for the payment of benefits under a property and
29 casualty insurance policy covering residential real estate.

30 (2) An assignment shall include a statement that the residential
31 contractor has made no assurances that the claimed loss will be fully
32 covered by an insurance contract and shall include the following notice in
33 capitalized 14-point type:

34 **"AN ASSIGNMENT OF RIGHTS OR BENEFITS IS VOLUNTARY.**
35 **YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS THAT YOU**
36 **HAVE UNDER YOUR INSURANCE POLICY. WITH AN**

1 ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE
2 ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU,
3 THE INSURED—~~HOMEOWNER~~ **POLICY HOLDER**, HAVE UNDER
4 YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND
5 THIS DOCUMENT BEFORE SIGNING.

6 THE INSURER MAY ONLY PAY FOR THE COST TO REPAIR OR
7 REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL,
8 SUBJECT TO THE TERMS OF THE POLICY."

9 (3) *The residential contractor shall provide the assignment to the*
10 *insurer of the residential real estate within three days after the*
11 *assignment is signed.*

12 (4) An assignment shall provide that, in addition to any other right to
13 revoke, the named insured has the right to cancel the assignment within
14 five business days after execution. ~~The residential contractor shall provide~~
15 ~~the assignment to the insurer of the residential real estate within five~~
16 ~~business days after the five-day right to cancel period expires.~~

17 ~~(4)(5)~~ An assignment shall not:

18 (A) Impair the interest of a mortgagee listed on the declarations page
19 of the property and casualty insurance policy that is the subject of the
20 assignment; or

21 (B) prevent or inhibit an insurer from communicating with the named
22 insured or mortgagee listed on the declarations page of the property and
23 casualty insurance policy that is the subject of the assignment.

24 (c) The commissioner of insurance shall strictly enforce the
25 provisions of K.S.A. 40-2404(9)(n), and amendments thereto, which
26 requires insurers to promptly provide a named insured a reasonable
27 explanation of the basis in the insurance policy in relation to the facts or
28 applicable law for denial of a claim or for the offer of a compromise
29 settlement.

30 (d) An assignment is void if the residential contractor:

31 (1) Violates any provision of this section; or

32 (2) is not in compliance with any of the requirements of the Kansas
33 roofing registration act.

34 (e) Any violation of this section is a deceptive act or practice under
35 the Kansas consumer protection act.

36 (f) This section shall be a part of and supplemental to the Kansas
37 consumer protection act.

38 Sec. 2. This act shall take effect and be in force from and after its
39 publication in the statute book.