

Residential Real Estate; Insurance; Assigning Rights or Benefits to Residential Contractors; Tenants; Domestic Violence; Housing Protections; SB 78

SB 78 creates law regarding assignment of certain rights or benefits under an insurance policy on residential real estate and protections related to housing for victims of domestic violence, sexual assault, human trafficking, or stalking, as follows.

Assignment of Rights or Benefits to a Residential Contractor under an Insurance Policy on Residential Real Estate

The bill creates law regarding a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate (assignment). Specifically, the bill states an assignment may authorize a residential contractor (as defined by the bill to include certain persons involved in repair or replacement of roof systems, other exterior work or cleanup, or interior or exterior repair and cleanup on residential real estate) to be named as a co-payee for the payment of benefits under a property and casualty insurance policy insuring residential real estate. Such assignment must include a specified notice in capitalized, 14-point type. The residential contractor must provide a copy of the assignment to the insurer of the residential real estate within three business days of the signing of the assignment, and the assignment must provide, in addition to any other right to revoke, the named insured has the right to cancel the assignment within five business days after execution.

The bill states an assignment shall not, under certain circumstances, impair the interest of a mortgagee or prevent or inhibit an insurer from communicating with the named insured or mortgagee. An assignment is void if the residential contractor violates any of the provisions of the new section or is not in compliance with the requirements of the Kansas Roofing Registration Act.

The bill directs the Commissioner of Insurance to strictly enforce statutory provisions requiring insurers to promptly provide a named insured a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Any violation of the new section constitutes a deceptive act or practice under the Kansas Consumer Protection Act.

In addition to “assignment” and “residential contractor,” the bill defines “residential real estate” and “roof system” for this purpose.

Housing Protections for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking

The bill creates law prohibiting certain actions being taken against a tenant, lessee, or applicant for a lease because such person is a “protected person,” defined by the bill to be a person who, during the preceding 12 months, has been, is, or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking, or stalking.

Specifically, an applicant cannot be denied tenancy on the basis of or as a direct result of being a protected person, if the applicant otherwise qualifies for tenancy or occupancy.

A tenant or lessee cannot be evicted from the premises or found to be in violation of a rental or lease agreement on the basis or as a direct result of being a protected person, if the tenant or lessee otherwise qualifies for tenancy or occupancy.

A tenant or lessee is not liable for rent for the period after vacating rented or leased premises if the tenant or lessee is a protected person and notifies the landlord or property owner in accordance with provisions set forth in the bill. In an action brought against a tenant or lessee under Kansas law seeking recovery of rent, the tenant or lessee will have an affirmative defense and no liability for rent for the period after vacating the premises if, by preponderance of the evidence, the court finds the tenant or lessee was a protected person on the date the tenant or lessee vacated the premises at issue and the tenant or lessee provided the required notice. The protections do not affect the tenant's or lessee's liability for late or unpaid rent or other amounts owed for the period prior to vacating the premises at issue.

An applicant, tenant, or lessee qualifies for the protections of the bill if the applicant, tenant, or lessee is a protected person and provides a statement regarding the qualifying circumstances to the landlord or property owner, who may request the applicant, tenant, or lessee provide additional documentation specified by the bill. Such documentation can include a document signed by the victim and any one of various specified licensed persons from whom the victim sought assistance, declaring under penalty of perjury the licensed person holds the opinion, in their professional judgment within their scope of practice, the qualifying incident occurred, or a court order granting relief to the protected person relating to the alleged qualifying circumstances. The submission of false information by an applicant, tenant, or lessee may be a basis for denial of tenancy, eviction, or violation of a rental or lease agreement.

A landlord or property owner may impose a reasonable termination fee, not to exceed one month's rent, on a tenant or lessee requesting termination pursuant to the bill before the expiration date of the lease, but only if such fee is contained in the terms of the rental or lease agreement.

The bill states the rights under this section shall not be waived (and a landlord or property owner shall not require a tenant or lessee to waive) in a rental or lease agreement, and a rental or lease agreement will continue for any remaining tenants or lessees upon termination of a protected person's agreement pursuant to the above provisions.

The bill allows a court to award statutory damages of \$1,000 and reasonable attorney fees and costs in an action against a landlord or property owner for a violation of the provisions created by the bill.

The bill states the definitions of "domestic violence," "human trafficking," "sexual assault," and "stalking" are the same as those provided by continuing statutes regarding substitute mailing addresses for victims of such offenses.