AN ACT enacting the Kansas residential roofing act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the Kansas residential roofing act.

Sec. 2. As used in the Kansas residential roofing act, unless the context directly indicates otherwise:

(a) “Residential roofing contractor” means a person or other entity in the business of contracting, or offering to contract with an owner to repair or replace roof systems on residential real estate, including roof coverings, roof sheathing, roof weatherproofing and insulation.

(b) “Residential real estate” means a new or existing building constructed for habitation by one to four families, including detached garages.

Sec. 3. (a) A residential roofing contractor providing roofing goods and services to be paid by an insured from the proceeds of a property or casualty insurance policy shall not advertise or promise to pay or rebate all or any part of an applicable insurance deductible. For the purposes of this section, rebating the insurance deductible includes granting any allowance against the fees to be charged or paying to the insured any form of compensation, for any reason, including, but not limited to, permitting the residential roofing contractor to display a sign or any other type of advertisement at the insured’s premises, or paying an insured for providing a letter of referral or recommendation.

(b) If a residential roofing contractor violates this section:

(1) The insurer to whom the insured tendered the claim shall not be obligated to consider the estimate prepared by the residential roofing contractor; and

(2) the insured or the applicable insurer may bring an action against the residential roofing contractor in a court of competent jurisdiction for damages sustained by the insured or insurer as a consequence of the residential roofing contractor’s violation.

Sec. 4. A person who has entered into a written contract with a residential roofing contractor to provide roofing goods and services to be paid by the insured from the proceeds of a property or casualty insurance policy has the right to cancel the contract within 72 hours after the
insured has been notified by the insurer that all or any part of the claim has been denied. Cancellation is evidenced by the insured giving written notice of cancellation to the residential roofing contractor at the address stated in the contract. Notice of cancellation, if given by mail, is effective upon deposit into the United States mail, postage prepaid and properly addressed to the residential roofing contractor. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract.

Sec. 5. Before entering a contract referred to in section 4, and amendments thereto, the residential roofing contractor shall furnish the insured:

(a) A statement in boldface type of a minimum size of 10 points, in substantially the following form: “You may cancel this contract at any time within 72 hours after you have been notified that your insurer has denied your claim to pay for the goods and services to be provided under this contract. See attached notice of cancellation form for an explanation of this right”; and

(b) a fully completed form in duplicate, captioned, “NOTICE OF CANCELLATION:,” which shall be attached to the contract but easily detachable, and which shall contain in boldface type of a minimum size of 10 points, the following statement:

“NOTICE OF CANCELLATION.

If your insurer denies all or any part of your claim to pay for goods and services to be provided under this contract, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of contractor) at (address of contractor’s place of business) at any time within 72 hours after you have been notified that your claim has been denied. If you cancel, any payments made by you under the contract will be returned within 10 business days following receipt by the contractor of your cancellation notice.

I HEREBY CANCEL THIS TRANSACTION.

________________________________________
(date)

________________________________________
(Insured’s signature)”

Sec. 6. Within 10 days after a contract referred to in section 4, and amendments thereto, has been cancelled, the residential roofing contractor shall tender to the insured any payments made by the insured
and any note or other evidence of indebtedness. If, however, the residential roofing contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the residential roofing contractor is entitled to the reasonable value of such services.

Sec. 7. (a) Whenever the attorney general or a county or district attorney has reason to believe that any person is in violation of the Kansas residential roofing act, and the proceedings would be in the public’s best interest, the attorney general or county or district attorney may bring an action against the person to restrain, by temporary or permanent injunction, that practice.

(b) Whenever any court issues a permanent injunction to restrain and prevent violation of the this act, the court may direct that the defendant restore to any person and interest any moneys or property, real or personal, which may have been acquired by means of violation of the this act, under terms and conditions to be established by the court.

(c) Any person who violates the this act shall be liable for a civil penalty as provided in subsection (a) of K.S.A. 50-636, and amendments thereto, which civil penalty shall be in addition to any other relief which may be granted.

Sec. 8. Any violation of this act is an unconscionable act or practice under the provisions of the Kansas consumer protection act and shall be subject to any and all of the enforcement provisions of the Kansas consumer protection act.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.