

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 or exterior cleanup services on residential real
17 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, constructed for habitation by at least one but
24 no more than four families; and

25 (4) "roof system" means and includes roof coverings, roof sheathing,
26 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 "YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS THAT
35 YOU HAVE UNDER YOUR INSURANCE POLICY. WITH AN
36 ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE

1 ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU,
2 THE INSURED HOMEOWNER, HAVE UNDER YOUR INSURANCE
3 POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT
4 BEFORE SIGNING.

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

8 (3) An assignment shall provide that, in addition to any other right to
9 revoke, the named insured has the right to cancel the assignment within
10 five business days after execution. The residential contractor shall provide
11 the assignment to the insurer of the residential real estate within five
12 business days after the five-day right-to-cancel period expires.

13 (4) An assignment shall not:

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

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

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

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

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

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

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

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

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