

**CHAPTER 97
(HB 421)**

AN ACT relating to insurance claims for residential roof repairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

- (1) *"Residential real estate" means a new or existing building constructed for habitation by one (1) to four (4) families, including detached garages;*
- (2) *"Roofing contractor" means a person or entity in the business of contracting or offering to contract with an owner of residential real estate to repair or replace a roof system; and*
- (3) *"Roof system" means the components of a roof to include but not be limited to covering, framing, insulation, sheathing, ventilation, and weatherproofing.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *A person who, on or after the effective date of this Act, enters into a contract with a roofing contractor to provide goods or services related to a roof system of residential real estate, where the goods or services are expected to be paid from the proceeds of a property and casualty insurance policy, may cancel the contract prior to midnight of the fifth business day after the person has received written notice from the insurer that all or part of the claim is not a covered loss under the property and casualty insurance policy.*
- (2) *Cancellation shall be deemed to have occurred when the person either personally delivers written notice of cancellation to the roofing contractor, deposits the written notice of cancellation in the U.S. mail, postage prepaid, and addressed to the roofing contractor at the address stated in the contract, or, if applicable, at the time notice of cancellation is transmitted to the roofing contractor by facsimile or at the time an e-mail notice of cancellation is sent.*
- (3) *Notice of cancellation given by the person need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the person not to be bound by the contract.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Prior to entering into a contract on or after the effective date of this Act for the provision of goods or services relating to the repair or replacement of any part of a roof system of residential real estate as provided in Section 2 of this Act, a roofing contractor shall furnish the owner of the residential real estate with:

- (1) *The mailing address of the roofing contractor through which written communication may be received;*
- (2) *The telephone number of the roofing contractor and, if applicable, the facsimile number and e-mail address;*
- (3) *A statement in at least ten (10) point boldface type that states:
"You may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. This right to cancel is in addition to any other rights of cancellation you may have under state or federal law or regulation. See the attached Notice of Cancellation form for an explanation of this right."; and*
- (4) *A fully completed form in duplicate, under the conspicuous caption "NOTICE OF CANCELLATION," and attached to but easily detachable from the contract, in at least ten (10) point boldface type that shall read as follows:*

"NOTICE OF CANCELLATION"
.....

(enter date of transaction)

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel this contract without penalty or monetary obligation before midnight of the fifth business day after you have received notice from your insurer. To cancel this transaction you may use any of the following methods: mail or otherwise deliver a signed and dated copy of this cancellation notice, or any other written notice of cancellation which you sign and date, to (enter physical address of roofing contractor), or e-mail a notice of cancellation to (enter e-mail address of roofing contractor), or transmit a notice of cancellation to (enter facsimile number of roofing contractor), not later than midnight of the fifth day after you receive notice from your insurer.

I HEREBY CANCEL THIS TRANSACTION.

.....

(Date)

.....

(Buyer's Signature)"

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (3) of this section, on or after the effective date of this Act a roofing contractor shall not require any advance payments under a contract for the repair or replacement of any part of a roof system of residential real estate when payment is expected to be made from the proceeds of a property or casualty insurance policy until the cancellation period, as provided in Section 2 of this Act, has expired.*
- (2) *Within ten (10) days after a contract has been cancelled as provided in Section 2 of this Act, a roofing contractor shall tender to the payor any payments, partial payments, or deposits made, and any note or other evidence of indebtedness, except as provided in subsection (3) of this section.*
- (3) *A roofing contractor that performs any repair services authorized by the owner of residential real estate, including but not limited to repair services necessary to prevent further damage to the premises, shall be entitled to collect a reasonable and customary amount for the repair services performed.*
- (4) *Any provision in a contract executed on or after the effective date of this Act for the repair of a roof system of residential real estate, as provided in Sections 1 to 5 of this Act, that requires the payment of any fee, except for repair services performed under subsection (3) of this section, shall not be enforceable against any person who has cancelled a contract under Section 2 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *On or after the effective date of this Act, a roofing contractor shall not represent, negotiate, or advertise to represent or negotiate on behalf of an owner of residential real estate on any insurance claim in connection with the repair or replacement of a roof system. Nothing in this subsection shall be construed to prohibit a roofing contractor from:

 - (a) *Providing an estimate for repair, replacement, construction, or reconstruction of the property to the owner of residential real estate; or*
 - (b) *Conferring with an insurance company's representative about damage to the property after a claim has been submitted by the owner of residential real estate.**

This subsection shall not apply to a public adjuster licensed under Subtitle 9 of KRS Chapter 304.

- (2) *On or after the effective date of this Act, a roofing contractor or person representing a roofing contractor shall not:*

- (a) *Offer to pay or rebate all or any portion of an insurance deductible or claims proceeds as an inducement to the sale of goods or services related to a residential roof contract;*
- (b) *Grant an allowance or discount against the fee to be charged under the contract; or*
- (c) *Pay the owner of residential real estate for whom services have been performed pursuant to Sections 1 to 5 of this Act, for any reason, any form of compensation in excess of one hundred dollars (\$100) including but not limited to a:*
 - 1. *Bonus;*
 - 2. *Coupon;*
 - 3. *Credit;*
 - 4. *Gift;*
 - 5. *Prize;*
 - 6. *Referral fee; or*
 - 7. *Any other item having a monetary value.*

Signed by Governor April 11, 2012.