

CHAPTER 46

(SB 128)

AN ACT relating to roofing contractors.

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

➔Section 1. KRS 367.628 is amended to read as follows:

- (1) ~~{On or after July 12, 2012, }~~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 July 12, 2012, }~~***Where the goods or services are expected to be paid from the proceeds of a property and casualty policy,*** a roofing contractor or person representing a roofing contractor shall not:

- (a) ***Cause damage to any part of a roof system in order to increase the scope of repair or replacement, or encourage a person to cause damage to any part of a roof system in order to secure a contract for repair or replacement;***
- (b) 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;
- (c)~~{(b)}~~ Grant an allowance or discount against the fee to be charged under the contract; or
- (d)~~{(c)}~~ Pay ***or offer to pay*** the owner of residential real estate ***or his or her representative*** for whom services have been ***or will be*** performed pursuant to KRS 367.620 to 367.628, 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.

➔SECTION 2. A NEW SECTION OF KRS 367.620 TO 367.628 IS CREATED TO READ AS FOLLOWS:

- (1) (a) ***Any person may maintain an action to enjoin continuing any act in violation of KRS 367.620 to 367.628 and, if injured by the act, may also maintain an action for the recovery of damages.***
- (b) ***If the court finds based on evidence presented by the plaintiff that the defendant is violating or has violated any of the provisions of KRS 367.620 to 367.628, the court shall enjoin the defendant from continuing the violations.***
- (c) ***It shall not be necessary that actual economic damages be alleged or proved by the plaintiff in order for the court to enjoin violations.***
- (2) ***In addition to injunctive relief, the plaintiff in the action shall be entitled to recover from the defendant two (2) times the amount of any actual economic damages sustained.***

- (3) *The court may award reasonable attorneys' fees and costs to the owner of residential real estate who prevails in an action under subsection (1) of this section, in addition to any other relief the residential real estate owner may be entitled to under this section.*
- (4) *In addition to the provisions of this section, all of the remedies, powers, and duties provided for the Attorney General by KRS Chapter 367 shall apply with equal force and effect to any act declared unlawful by KRS 367.620 to 367.628.*
- (5) *Nothing in this section shall prohibit a person from pursuing the recovery of damages afforded elsewhere under the law.*

Signed by Governor March 20, 2017.