

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 insurance policy,** 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 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; or[-]

(d) Cause damage to a roof before repair or replacement in order to increase the scope of repair or replacement to a roof system, or encourage a person to cause damage to a roof in order to secure a contract for repair or replacement.

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

(1) Any person may maintain an action to enjoin a continuance of any act in violation of Section 1 of this Act and if injured thereby for the recovery of damages. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of Section 1 of this Act, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action shall be entitled to recover from the defendant three (3) times the amount of any actual damages sustained.

(2) In any action brought by a person under subsection (1) of this section, the court may award, to the prevailing party, in addition to the relief provided in this section, reasonable attorney's fees and costs.

(3) Upon commencement of any action brought under subsection (1) of this section, the clerk of the court shall mail a copy of the complaint or other initial pleading to the Attorney General and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

- (4) Any permanent injunction, judgment or order of the court made under KRS 367.190 shall be prima facie evidence in an action brought under subsection (1) of this section that the respondent used or employed a method, act or practice declared unlawful by Section 1 of this Act.
- (5) In addition to subsections (1) to (4) of this section, all of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.220 and 367.990, pertaining to acts declared unlawful by KRS 367.170, shall apply with equal force and effect to acts declared unlawful by Section 1 of this Act.