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COMMITTEE REPORT

February 28, 2013

**H. 3409**

Introduced by Reps. Sandifer and Bales

S. Printed 2/28/13--H. [SEC 3/1/13 12:36 PM]

Read the first time January 23, 2013.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3409) to amend the Code of Laws of South Carolina, 1976, by adding Section 40‑59‑25 so as to prohibit certain acts by residential builders or contractors relating to roofing, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by Section 40‑59‑25(A), as contained in SECTION 1, by deleting the subsection in its entirety and inserting:

/ (A)(1) A person who enters into a written contract for goods or services related to a roofing system with a party who will be paid from proceeds of a property and casualty insurance policy and who subsequently receives written notice from the insurer that all or part of the claim or contract is not a covered loss under the policy may cancel the contract prior to midnight on the fifth business day after the insured has received the written notice of the denial of coverage.

(2) This section applies to the following persons performing goods or services related to a roofing system:

(a) a licensed residential builder;

(b) a registered residential specialty contractor; and

(c) a person or firm who engages or offers to engage in the business of residential building or residential specialty contracting without first having registered with the commission or procured a license from the commission.

(3) Cancellation must be evidenced by the insured giving written notice of cancellation to the builder or contractor at the address provided in the contract. Notice of cancellation, if given by mail, must be effective upon deposit into the United States mail, postage prepaid and properly addressed to the builder or contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract.

(4) For purposes of this subsection, ‘roof system’ means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, or insulation. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑59‑25 SO AS TO PROHIBIT CERTAIN ACTS BY RESIDENTIAL BUILDERS OR CONTRACTORS RELATING TO ROOFING SYSTEMS; AND TO AMEND SECTION 40‑59‑110, RELATING TO REVOCATION, SUSPENSION, OR RESTRICTION OF THE LICENSE BY THE RESIDENTIAL HOME BUILDERS COMMISSION, SO AS TO PROVIDE A CONFORMING CHANGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 59, Title 40 of the 1976 Code is amended by adding:

“Section 40‑59‑25. (A) A person who has entered into a written contract with a residential builder, a residential specialty contractor, or a person or firm who engages or offers to engage in the business of residential building or residential specialty contracting without first having registered with the commission or procured a license from the commission to provide goods or services related to a roof system and will be paid from the proceeds of a property and casualty insurance policy may cancel the contract prior to midnight on the fifth business day after the insured has received written notice from the insurer that all or any part of the claim or contract is not a covered loss under such insurance policy. Cancellation must be evidenced by the insured giving written notice of cancellation to the builder or contractor at the address provided in the contract. Notice of cancellation, if given by mail, must be effective upon deposit into the United States mail, postage prepaid and properly addressed to the builder or contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract. For purposes of this subsection, ‘roof system’ means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, or insulation.

(B) Before entering a contract as provided in subsection (A), the builder or contractor shall:

(1) provide the insured a statement in boldface type of a minimum size of ten points, in substantially the following form:

‘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 this 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 which may be found in state or federal law or regulation. See attached notice of cancellation form for an explanation of this right’; and

(2) provide each insured a fully completed form, in duplicate, prominently captioned ‘NOTICE OF CANCELLATION’, which must be attached to the contract but easily detachable, and which must contain in boldface type of a minimum size of ten points the following statement:

‘NOTICE OF CANCELLATION

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 the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (insert name of contractor) at (insert address of contractor’s place of business) any time prior to midnight on the fifth business day after you have received such notices from your insurer.

I HEREBY CANCEL THIS TRANSACTION

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DATE

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SIGNATURE OF INSURED’

(C) In circumstances in which payment may be made from the proceeds of a property and casualty insurance policy, a builder or contractor shall not require any payments from an insured until the five-day cancellation period has expired. If, however, the builder or contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the builder or contractor must be entitled to collect the amount due for the emergency services at the time they are rendered. A provision in a contract as provided in subsection (A) that requires payment of any fee for anything except emergency services must not be enforceable against an insured who has canceled a contract under this section.

(D) A builder or contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems.

(E)(1) A builder or contractor shall not advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of goods or services.

(2) A person who violates a provision of this subsection is guilty of a misdemeanor. The violation is grounds for suspension or revocation of licenses issued pursuant to this chapter.

(3) As used in this subsection, the term ‘promise to pay or rebate’ means:

(a) granting any allowance or offering any discount against the fees to be charged, including, but not limited to, an allowance or discount in return for displaying a sign or other advertisement at the insured’s premises; or

(b) paying the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason.”

SECTION 2. Section 40‑59‑110 of the 1976 Code is amended to read:

“Section 40‑59‑110. In addition to the grounds provided for in Section 40‑1‑110, the commission, upon a majority vote, may revoke, suspend, or restrict the license or registration of a licensee or registrant who the commission finds has committed fraud or deceit in obtaining a license or registration under this chapter or has engaged in misconduct in the practice of residential building or residential specialty contracting. For purposes of this section, misconduct includes a violation of Section 40‑59‑25, or a pattern of repeated failure by a residential builder or residential specialty contractor to pay labor or material bills. For purposes of disciplinary matters, or otherwise, compliance with the construction standards adopted by the commission is prima facie evidence of compliance with applicable professional standards.”

SECTION 3. This act takes effect on July 1, 2013.

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