

By: Representative Turner

To: Insurance

HOUSE BILL NO. 1408

1 AN ACT TO AMEND SECTION 75-24-305, MISSISSIPPI CODE OF 1972,  
 2 TO REVISE THE DEFINITION OF THE TERM "ROOF SYSTEM" UNDER THE  
 3 INSURANCE BENEFITS ROOFING REPAIR CONSUMER PROTECTION ACT; TO  
 4 AMEND SECTION 75-24-307, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
 5 REQUIRED CANCELLATION PERIOD IN ROOF SYSTEM REPAIR CONTRACTS FROM  
 6 THREE TO FIVE DAYS AND TO PROHIBIT A RESIDENTIAL ROOFING  
 7 CONTRACTOR FROM REQUIRING PAYMENT UNTIL THE EXPIRATION OF THE  
 8 CANCELLATION PERIOD; TO PROHIBIT A RESIDENTIAL ROOFING CONTRACTOR  
 9 FROM REPRESENTING A PROPERTY OWNER ON INSURANCE CLAIMS AND FROM  
 10 RECEIVING PAYMENT FROM AN ATTORNEY FOR CLAIM REFERRALS; TO  
 11 PRESCRIBE CERTAIN REQUIREMENTS FOR A POST-LOSS ASSIGNMENT BY AN  
 12 INSURED TO A RESIDENTIAL ROOFING CONTRACTOR; TO AMEND SECTION  
 13 75-24-311, MISSISSIPPI CODE OF 1972, TO SUBJECT A RESIDENTIAL  
 14 ROOFING CONTRACTOR WHO VIOLATES THE INSURANCE BENEFITS ROOFING  
 15 REPAIR CONSUMER PROTECTION ACT TO DISCIPLINARY ACTION BY THE STATE  
 16 BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** Section 75-24-305, Mississippi Code of 1972, is  
 19 amended as follows:

20 75-24-305. As used in Sections 75-24-301 through 75-24-311:

21 (a) "Emergency services" means services performed with  
 22 the express permission of the insured and that are immediately  
 23 necessary for:

24 (i) The preservation of the residential real  
 25 estate; or



26 (ii) The health of the insured, owner or  
27 possessor.  
28 "Emergency services" does not include inspection of the  
29 residential roof system or an estimation of the repair costs.

30 (b) "Insured" means an insured whose name appears on  
31 the face of the property and casualty insurance policy that  
32 provides coverage for the residential roof system to be repaired.

33 (c) "Residential roofing contractor" means a person or  
34 entity contracting or offering to contract with an insured, owner  
35 or possessor of a residential roof system to repair or replace a  
36 roof system on residential real estate, or any portion thereof,  
37 where all or part of the cost is expected to be paid as a benefit  
38 of a property and casualty insurance policy.

39 (d) "Residential" means a new or existing dwelling  
40 constructed for habitation by one (1) to four (4) families,  
41 including a detached garage.

42 (e) "Insurance benefits residential roof system repair  
43 contract" means a written contract with an insured to repair a  
44 roof system, or any part thereof, on residential real estate, or  
45 provide goods and services in connection with such repair, that is  
46 to be paid in whole, or in part, under a property and casualty  
47 insurance policy.

48 (f) "Roof system" means roof coverings, roof sheathing,  
49 roof weatherproofing, roof framing, roof ventilation system, and  
50 insulation.



51           **SECTION 2.** Section 75-24-307, Mississippi Code of 1972, is  
52 amended as follows:

53           75-24-307. (1) Before signing an insurance benefits  
54 residential roof system repair contract with an insured, a  
55 residential roofing contractor shall furnish to the insured:

56                   (a) The following statement in at least 10-point  
57 boldface type that is attached to the contract:

58           "You may cancel this insurance benefits residential roof  
59 system repair contract at any time within \* \* \* five (5) business  
60 days after you have received written notice from your insurance  
61 company that all or any part of your claim, or all or part of the  
62 services and goods to be provided by this contract, is not a  
63 covered loss under your insurance policy. A notice of  
64 cancellation form is provided to you with this contract. To  
65 cancel this contract under these circumstances, sign and date, and  
66 then mail or deliver the attached Notice of Cancellation, or  
67 another similar written notice of cancellation, to the contractor  
68 within \* \* \* five (5) business days after you have received such  
69 written notice from your insurance company. If you cancel, any  
70 payments made under this residential roofing system repair  
71 contract, except for emergency services and repairs subsequently  
72 approved for payment by the insurance company and already  
73 performed by the contractor, will be returned to you within ten  
74 (10) business days following receipt by the contractor of your  
75 cancellation notice."; and



76 (b) Duplicate copies of a completed form captioned  
77 "NOTICE OF CANCELLATION" that is attached to the contract, is  
78 easily detachable, and contains the following in at least 10-point  
79 boldface type:

80 "NOTICE OF CANCELLATION

81 (Name and address of contractor - to be entered by  
82 contractor)

83 (Date of contract - to be entered by contractor)

84 (Address of residential real estate to be repaired - to be  
85 entered by contractor)

86 I have been notified by my insurance company that all or any  
87 part of my claim, or the services and goods to be provided in the  
88 residential roofing system repair contract, is not a covered loss  
89 under the insurance policy.

90 I HEREBY CANCEL THIS TRANSACTION

91 Please return my prior payments within ten (10) days.

92 \_\_\_\_\_  
93 INSURED'S SIGNATURE DATE"

94 (2) (a) In circumstances in which payment may be made from  
95 the proceeds of a property and casualty insurance policy, a  
96 residential roofing contractor shall not require any payment from  
97 an insured until the five-day cancellation period has expired.

98 (b) For repairs made by a residential roofing  
99 contractor that are separate or additional to those repairs  
100 covered under the policy of insurance, the residential roofing



101 contractor shall include a statement identifying those aspects of  
102 the repair or replacement which are separate from or additional to  
103 the repair or replacement of the damage to the roof system caused  
104 by a covered peril and explaining that payment of those excess or  
105 additional items are the insured's responsibility. This  
106 subsection does not limit an insured from communicating with the  
107 insurer about the estimated replacement cost of the repairs or  
108 replacement of the damaged roof system.

109 (3) A residential roofing contractor shall not represent or  
110 negotiate, or offer or advertise to represent or negotiate, on  
111 behalf of an owner or possessor of residential real estate on any  
112 insurance claim in connection with the repair or replacement of a  
113 roof system. This subsection does not prohibit an insured from  
114 including the residential roofing contractor in the insured's  
115 communications with the insurer about the damages to the roof  
116 system or the estimated replacement cost of the repairs or  
117 replacement of the damaged roof system. This subsection does not  
118 apply to a public adjuster licensed under Sections 83-17-501  
119 through 83-17-527.

120 (4) (a) A residential roofing contractor shall not contract  
121 for, agree to, or receive anything of value from an attorney or  
122 other person acting in concert with an attorney for referring  
123 claims to the attorney or in connection with any claim for which  
124 the residential roofing contractor has performed or intends to  
125 perform services. A residential roofing contractor may not create



126 a business relationship between an insured and an attorney or  
127 obligate an insured to hire a specified attorney.

128 (b) A residential roofing contractor shall not  
129 advertise or otherwise promise or offer to pay, or pay, or rebate  
130 all or any portion of an insured's insurance deductible as an  
131 inducement to enter into the residential roofing contract.

132 (5) A post-loss assignment by a named insured of rights or  
133 benefits to a residential roofing contractor under a property and  
134 casualty insurance policy insuring residential real estate shall  
135 authorize a residential roofing contractor only to be named as a  
136 co-payee for the payment of benefits under a property and casualty  
137 insurance policy covering residential real estate. The assignment  
138 shall include all of the following:

139 (a) An itemized description of the work to be  
140 performed;

141 (b) An itemized description of the materials, labor and  
142 fees for the work to be performed;

143 (c) A total itemized amount to be paid for the work to  
144 be performed;

145 (d) A statement that the residential roofing contractor  
146 has made no assurances that the claimed loss will be covered fully  
147 by an insurance contract; and

148 (e) The following notice in capitalized fourteen-point  
149 type:



150 "You are agreeing to give up certain rights you have under  
151 your insurance policy. Please read and understand this document  
152 before signing. The itemized description of the work to be done  
153 shown in this assignment form has not been agreed to by the  
154 insurer. The insurer has the right to pay only for the cost to  
155 repair or replace damaged property caused by a covered peril."

156 (6) A copy of the executed assignment shall be provided to  
157 the insurer of the residential real estate no later than five (5)  
158 business days after the execution date of the assignment.

159 (7) The assignment shall not impair the interest of a  
160 mortgagee listed on the declarations page of the property and  
161 casualty insurance policy that is the subject of the assignment.

162 (8) An assignment shall not prevent or inhibit an insurer  
163 from communication with the named insured or mortgagee listed on  
164 the declarations page of the property and casualty insurance  
165 policy that is the subject of the assignment.

166 **SECTION 3.** Section 75-24-311, Mississippi Code of 1972, is  
167 amended as follows:

168 75-24-311. (1) Any residential roofing contractor in  
169 violation of Sections 75-24-301 through 75-24-311 shall be subject  
170 to the civil and criminal penalties and remedies under Sections  
171 75-24-19, 75-24-20 and 75-24-23 \* \* \*. In addition, the  
172 residential roofing contractor is subject to disciplinary action  
173 under Section 73-59-13 and may be liable under a private right of  
174 action of the consumer.



175           (2) A violation of Sections 75-24-301 through 75-24-311 by a  
176 residential roofing contractor is an unfair and deceptive act or  
177 practice as defined by the Mississippi Consumer Protection Law,  
178 Section 75-24-1 et seq.

179           (3) Sections 75-24-301 through 75-24-311 do not prohibit an  
180 insured that is harmed by a deceptive trade practice from  
181 commencing a civil action against a residential roofing  
182 contractor.

183           **SECTION 4.** This act shall take effect and be in force from  
184 and after July 1, 2024.

