

By: Representative Turner

To: Insurance

COMMITTEE SUBSTITUTE
FOR
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 CONFORM; AND FOR RELATED
14 PURPOSES.

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

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

18 75-24-305. As used in Sections 75-24-301 through 75-24-311:

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

22 (i) The preservation of the residential real
23 estate; or



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

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

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

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

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

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



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

51 75-24-307. (1) Before signing an insurance benefits
52 residential roof system repair contract with an insured, a
53 residential roofing contractor shall furnish to the insured:

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

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



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

78 "NOTICE OF CANCELLATION

79 (Name and address of contractor - to be entered by
80 contractor)

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

82 (Address of residential real estate to be repaired - to be
83 entered by contractor)

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

88 I HEREBY CANCEL THIS TRANSACTION

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

90 _____

91 INSURED'S SIGNATURE

DATE"

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

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



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

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

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



124 a business relationship between an insured and an attorney or
125 obligate an insured to hire a specified attorney.

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

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

137 (a) An itemized description of the work to be
138 performed;

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

141 (c) A total itemized amount to be paid for the work to
142 be performed;

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

146 (e) The following notice in capitalized fourteen-point
147 type:



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

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

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

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

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

166 75-24-311. (1) Any residential roofing contractor in
167 violation of Sections 75-24-301 through 75-24-311 shall be subject
168 to the civil and criminal penalties and remedies under Sections
169 75-24-19, 75-24-20 and 75-24-23, and may be liable under a private
170 right of action of the consumer.

171 (2) A violation of Sections 75-24-301 through 75-24-311 by a
172 residential roofing contractor is an unfair and deceptive act or



173 practice as defined by the Mississippi Consumer Protection Law,
174 Section 75-24-1 et seq.

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

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

