

By: Representative Turner

To: Insurance

HOUSE BILL NO. 1408
(As Sent to Governor)

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 PROHIBIT A
5 RESIDENTIAL ROOFING CONTRACTOR FROM REQUIRING PAYMENT UNTIL THE
6 EXPIRATION OF THE CANCELLATION PERIOD; TO PROHIBIT A RESIDENTIAL
7 ROOFING CONTRACTOR FROM REPRESENTING A PROPERTY OWNER ON INSURANCE
8 CLAIMS AND FROM RECEIVING PAYMENT FROM AN ATTORNEY FOR CLAIM
9 REFERRALS; TO PRESCRIBE CERTAIN REQUIREMENTS FOR A POST-LOSS
10 ASSIGNMENT BY AN INSURED TO A RESIDENTIAL ROOFING CONTRACTOR; TO
11 AMEND SECTION 75-24-311, MISSISSIPPI CODE OF 1972, TO CONFORM; AND
12 FOR RELATED PURPOSES.

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

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

16 75-24-305. As used in Sections 75-24-301 through 75-24-311:

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

20 (i) The preservation of the residential real
21 estate; or

22 (ii) The health of the insured, owner or
23 possessor.



24 "Emergency services" does not include inspection of the
25 residential roof system or an estimation of the repair costs.

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

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

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

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

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

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



49 75-24-307. (1) Before signing an insurance benefits
50 residential roof system repair contract with an insured, a
51 residential roofing contractor shall furnish to the insured:

52 (a) The following statement in at least * * * 12-point
53 boldface type that is attached to the contract:

54 "You may cancel this insurance benefits residential roof
55 system repair contract at any time within three (3) business days
56 after you have received written notice from your insurance company
57 that all or any part of your claim, or all or part of the services
58 and goods to be provided by this contract, is not a covered loss
59 under your insurance policy. A notice of cancellation form is
60 provided to you with this contract. To cancel this contract under
61 these circumstances, sign and date, and then mail or deliver the
62 attached Notice of Cancellation, or another similar written notice
63 of cancellation, to the contractor within three (3) business days
64 after you have received such written notice from your insurance
65 company. If you cancel, any payments made under this residential
66 roofing system repair contract, except for emergency services and
67 repairs subsequently approved for payment by the insurance company
68 and already performed by the contractor, will be returned to you
69 within ten (10) business days following receipt by the contractor
70 of your cancellation notice."; and

71 (b) Duplicate copies of a completed form captioned
72 "NOTICE OF CANCELLATION" that is attached to the contract, is



73 easily detachable, and contains the following in at least * * *
74 12-point boldface type:

75 "NOTICE OF CANCELLATION

76 (Name and address of contractor - to be entered by
77 contractor)

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

79 (Address of residential real estate to be repaired - to be
80 entered by contractor)

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

85 I HEREBY CANCEL THIS TRANSACTION

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

87 _____
88 INSURED'S SIGNATURE DATE"

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

93 (b) Prior to a contract being executed for repairs made
94 by a residential roofing contractor that are separate or
95 additional to those repairs covered under the policy of insurance,
96 the residential roofing contractor shall include a statement
97 identifying those aspects of the repair or replacement which are



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

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

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



122 a business relationship between an insured and an attorney or
123 obligate an insured to hire a specified attorney.

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

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

135 (a) An itemized description of the work to be
136 performed;

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

139 (c) A total itemized amount to be paid for the work to
140 be performed;

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

144 (e) The following notice in capitalized fourteen-point
145 type:



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

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

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

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

162 (9) A residential roofing contractor shall comply with all
163 applicable building codes when replacing, repairing, constructing
164 or reconstructing a roof system.

165 (10) Pursuant to the terms of the insured's contract,
166 nothing in this section shall be construed to prohibit a
167 residential roofing contractor from:

168 (a) Providing an insured an estimate for repair,
169 replacement, construction or reconstruction of the insured's



170 property and any such estimate may be submitted to the insured's
171 insurance company;

172 (b) Conferring with an insurance company's
173 representative about damage to an insured's property; or

174 (c) Discussing repair or replacement options with an
175 insurance company's representative or the insured about options
176 for the repair or replacement of the damage.

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

179 75-24-311. (1) Any residential roofing contractor in
180 violation of Sections 75-24-301 through 75-24-311 shall be subject
181 to the civil and criminal penalties and remedies under Sections
182 75-24-19, 75-24-20 and 75-24-23, and may be liable under a private
183 right of action of the consumer.

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

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

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

