

By: Senator(s) Michel

To: Insurance

SENATE BILL NO. 2758

1 AN ACT TO AMEND SECTION 75-24-305, MISSISSIPPI CODE OF 1972,
2 TO ADD ROOF FRAMING AND ROOF VENTILATION SYSTEM TO CERTAIN
3 DEFINITIONS RELATED TO RESIDENTIAL ROOFERS; TO AMEND SECTION
4 75-24-307, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN
5 CIRCUMSTANCES IN WHICH PAYMENT MAY BE MADE FROM THE PROCEEDS OF A
6 PROPERTY AND CASUALTY INSURANCE POLICY, A RESIDENTIAL ROOFING
7 CONTRACTOR SHALL NOT REQUIRE ANY PAYMENTS FROM AN INSURED UNTIL
8 THE FIVE-DAY CANCELLATION PERIOD HAS EXPIRED; TO REQUIRE
9 RESIDENTIAL ROOFERS TO INCLUDE A STATEMENT IDENTIFYING THOSE
10 ASPECTS OF THE REPAIR OR REPLACEMENT THAT ARE SEPARATE FROM OR
11 ADDITIONAL TO THE REPAIR OR REPLACEMENT OF THE DAMAGE TO THE ROOF
12 SYSTEM CAUSED BY A COVERED PERIL AND EXPLAINING THAT PAYMENT OF
13 THOSE EXCESS OR ADDITIONAL ITEMS ARE THE INSURED'S RESPONSIBILITY;
14 TO PROHIBIT RESIDENTIAL ROOFING CONTRACTORS FROM REPRESENTING OR
15 NEGOTIATING, OR OFFERING OR ADVERTISING TO REPRESENT OR NEGOTIATE,
16 ON BEHALF OF AN OWNER OR POSSESSOR OF RESIDENTIAL REAL ESTATE ON
17 ANY INSURANCE CLAIM IN CONNECTION WITH THE REPAIR OR REPLACEMENT
18 OF ROOF SYSTEMS; TO PROHIBIT SUCH CONTRACTORS FROM RECEIVING
19 REFERRAL FEES FROM ATTORNEYS FOR REFERRING CLAIMS; TO PROHIBIT
20 ROOFING CONTRACTORS FROM ADVERTISING OR OFFERING TO PAY, OR REBATE
21 ALL OR ANY PORTION OF AN INSURED'S INSURANCE DEDUCTIBLE AS AN
22 INDUCEMENT TO ENTER INTO THE RESIDENTIAL ROOFING CONTRACT; TO
23 REQUIRE CERTAIN INFORMATION BE INCLUDED IN A POST-LOSS ASSIGNMENT;
24 TO AMEND SECTION 75-24-311, MISSISSIPPI CODE OF 1972, TO PROVIDE
25 THAT RESIDENTIAL ROOFING CONTRACTORS SHALL BE SUBJECT TO
26 DISCIPLINARY ACTION FOR ANY VIOLATION OF THE LAW, AMONG OTHER
27 PUNISHMENTS; AND FOR RELATED PURPOSES.

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

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



31 75-24-305. As used in Sections 75-24-301 through 75-24-311:

32 (a) "Emergency services" means services performed with
33 the express permission of the insured and that are immediately
34 necessary for:

35 (i) The preservation of the residential real
36 estate; or

37 (ii) The health of the insured, owner or
38 possessor.

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

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

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

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

53 (e) "Insurance benefits residential roof system repair
54 contract" means a written contract with an insured to repair a
55 roof system, or any part thereof, on residential real estate, or



56 provide goods and services in connection with such repair, that is
57 to be paid in whole, or in part, under a property and casualty
58 insurance policy.

59 (f) "Roof system" means roof coverings, roof sheathing,
60 roof weatherproofing, roof framing, roof ventilation system and
61 insulation.

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

64 75-24-307. Before signing an insurance benefits residential
65 roof system repair contract with an insured, a residential roofing
66 contractor shall furnish to the insured:

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

69 "You may cancel this insurance benefits residential roof
70 system repair contract at any time within * * * five (5) business
71 days after you have received written notice from your insurance
72 company that all or any part of your claim, or all or part of the
73 services and goods to be provided by this contract, is not a
74 covered loss under your insurance policy. A notice of
75 cancellation form is provided to you with this contract. To
76 cancel this contract under these circumstances, sign and date, and
77 then mail or deliver the attached Notice of Cancellation, or
78 another similar written notice of cancellation, to the contractor
79 within * * * five (5) business days after you have received such
80 written notice from your insurance company. If you cancel, any



81 payments made under this residential roofing system repair
82 contract, except for emergency services and repairs subsequently
83 approved for payment by the insurance company and already
84 performed by the contractor, will be returned to you within ten
85 (10) business days following receipt by the contractor of your
86 cancellation notice."; and

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

91 "NOTICE OF CANCELLATION

92 (Name and address of contractor - to be entered by
93 contractor)

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

95 (Address of residential real estate to be repaired - to be
96 entered by contractor)

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

101 I HEREBY CANCEL THIS TRANSACTION

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

103 _____

104 INSURED'S SIGNATURE

DATE"



105 (c) (i) In circumstances in which payment may be made
106 from the proceeds of a property and casualty insurance policy, a
107 residential roofing contractor shall not require any payments from
108 an insured until the five-day cancellation period has expired.

109 (ii) For any repairs made by a residential roofing
110 contractor which are separate or in addition to those repairs
111 covered under the policy of insurance, the residential roofing
112 contractor shall include a statement identifying those aspects of
113 the repair or replacement that are separate from or additional to
114 the repair or replacement of the damage to the roof system caused
115 by a covered peril and explaining that payment of those excess or
116 additional items are the insured's responsibility. Nothing in
117 this subsection limits an insured from communicating with the
118 insurer about the estimated replacement cost of the repairs or
119 replacement of the damaged roof system.

120 (d) A residential roofing contractor shall not
121 represent or negotiate, or offer or advertise to represent or
122 negotiate, on behalf of an owner or possessor of residential real
123 estate on any insurance claim in connection with the repair or
124 replacement of roof systems. Nothing in this subsection prohibits
125 an insured from including the residential roofing contractor in
126 the insured's communications with the insurer about the damages to
127 the roof system or the estimated replacement cost of the repairs
128 or replacement of the damaged roof system. This subsection shall
129 not apply to a public adjuster licensed under 83-17-501.



130 (e) (i) No roofing contractor shall contract for,
131 agree to, or receive anything of value from any attorney at law or
132 other person acting in concert with any attorney at law for
133 referring claims to the attorney, or in connection with any claim
134 for which the roofing contractor has performed or intends to
135 perform services. No roofing contract subject to this act can
136 create a business relationship between an insured and any attorney
137 or obligate an insured to hire a specified attorney.

138 (ii) No roofing contractor shall advertise or
139 otherwise promise or offer to pay, or pay, or rebate all or any
140 portion of an insured's insurance deductible as an inducement to
141 enter into the residential roofing contract.

142 (f) A post-loss assignment by a named insured of rights
143 or benefits to a residential contractor under a property and
144 casualty insurance policy insuring residential real estate shall
145 only authorize a residential contractor to be named as a co-payee
146 for the payment of benefits under a property and casualty
147 insurance policy covering residential real estate. The assignment
148 shall include all of the following:

149 (i) An itemized description of the work to be
150 performed;

151 (ii) An itemized description of the materials,
152 labor, and fees for the work to be performed;

153 (iii) A total itemized amount to be paid for the
154 work to be performed;



155 (iv) A statement that the residential contractor
156 has made no assurances that the claimed loss will be fully covered
157 by an insurance contract; and

158 (v) The following notice in capitalized
159 fourteen-point type:

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

166 (vi) A copy of the executed assignment shall be
167 provided to the insurer of the residential real estate within five
168 (5) business days after execution of the assignment.

169 (vii) The assignment shall not impair the interest
170 of a mortgagee listed on the declaration page of the property and
171 casualty insurance policy which is the subject of the assignment.

172 (viii) The assignment shall not prevent or inhibit
173 an insurer from communication with the named insured or mortgagee
174 listed on the declarations page of the property and casualty
175 insurance policy that is the subject of the assignment.

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

178 75-24-311. (1) Any residential roofing contractor in
179 violation of Sections 75-24-301 through 75-24-311 shall be subject



180 to the civil and criminal penalties and remedies under Sections
181 75-24-19, 75-24-20 and 75-24-23 * * *; be subject to disciplinary
182 action under Section 73-59-13; 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 contractor is an unfair and deceptive act or practice
186 as defined by the Mississippi Consumer Protection Law, Section
187 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.

