
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, after significant
2 weather events, contractors often swarm into neighborhoods with
3 promises to provide homeowners new roofs "at no cost to them",
4 convincing homeowners to sign binding contracts to replace the
5 entire roof. In cases where there has been substantial damage
6 requiring a complete roof replacement, this not a problem;
7 however, in many instances a subsequent inspection by a
8 qualified adjuster reveals that the roof sustained minimal or no
9 damage, and the insurer must limit the claim to the cost to
10 repair the actual damage, if any. In those situations,
11 homeowners find themselves responsible for the cost with no
12 recourse.

13 The legislature further finds that following catastrophic
14 storms, when contractors may be in short supply, unscrupulous
15 individuals may take advantage of such circumstances and
16 represent themselves as insurance claims experts who can obtain
17 insurance proceeds to fix a house, even when the individuals are



1 not licensed independent adjusters. The legislature believes
2 that stronger consumer protection measures must be taken to
3 protect Hawaii residents from this kind of unscrupulous
4 predatory behavior.

5 Accordingly, the purpose of this Act is to protect
6 homeowners from unsolicited offers to repair their homes
7 predicated on the receipt of insurance proceeds by:

8 (1) Prohibiting residential contractors from offering to
9 pay, in any monetary form, a homeowners insurance
10 deductible as an incentive to encourage the homeowner
11 to hire the contractor; and

12 (2) Allowing an insured to rescind a contract to repair or
13 replace roof systems or other exterior work within
14 five business days of receiving notice from a
15 homeowners insurer that all or part of the claim or
16 contract is not a covered loss under a homeowners
17 insurance policy.

18 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§481B- Residential contractors; roof systems;
2 homeowners insurance policies; deductibles; rescission. (a) A
3 residential contractor shall not advertise or promise to pay or
4 rebate any portion, including the entire portion of any
5 homeowners insurance deductible as an inducement to the sale of
6 goods or services. As used in this subsection, a promise to pay
7 or rebate includes granting any allowance against the fees to be
8 charged; paying to the insured any form of compensation; or
9 providing to the insured any gift, prize, bonus, coupon, credit,
10 referral fee, or any other item of monetary value for any
11 reason, including but not limited to permitting the residential
12 contractor to display a sign or any other type of advertisement
13 at the insured's premises.

14 (b) A person who has entered into a written contract with
15 a residential contractor to provide goods and services to be
16 paid from the proceeds of a homeowners insurance policy may
17 rescind the contract prior to midnight on the fifth business day
18 after the insured has been notified by the homeowners insurer
19 that all or any part of the claim or contract is not a covered
20 loss under the homeowners insurance policy. Rescission is
21 evidenced by the insured giving written notice of rescission to



1 the residential contractor at the address stated in the
2 contract; provided that if notice of rescission is given by
3 mail, the notice shall be effective upon deposit in the United
4 States mail, postage prepaid and properly addressed to the
5 residential contractor. Notice of rescission need not take any
6 particular form and is sufficient if the notice indicates, by
7 any form of written expression, the intention of the insured not
8 to be bound by the contract.

9 (c) Within ten days of the rescission of a contract
10 pursuant to subsection (b), the residential contractor shall
11 tender to the insured of the residential real estate any
12 payments, partial payments, or deposits made and any note or any
13 other evidence of indebtedness; provided that if the residential
14 contractor has performed any emergency services, which have been
15 acknowledged by the insured in writing as necessary to prevent
16 damage to the residential real estate premises, the residential
17 contractor shall be entitled to the reasonable value of such
18 services. Any provision in a contract for goods or services to
19 be paid from the proceeds of a homeowners insurance policy that
20 requires the payment of any fee for anything except emergency



1 services shall not be enforceable against an insured who has
2 rescinded a contract pursuant to subsection (b).

3 (d) A contract entered into pursuant to subsection (b)
4 shall contain the following notices, in a type size no smaller
5 than ten-point boldface type:

6 (1) A notice of right to rescind form in substantially the
7 following form:

8 "You may rescind this contract at any time before
9 midnight on the fifth business day after you have been
10 notified by your insurer that all or any part of the
11 claim or contract is not a covered loss under your
12 homeowners' insurance policy. See attached notice of
13 rescission form for an explanation of this right"; and

14 (2) A notice of rescission form, in duplicate, attached to
15 the contract and easily detachable, completed with the
16 name of the residential contractor and the address
17 where the notice of cancellation is to be delivered,
18 in substantially the following form:

19 "NOTICE OF RESCISSION

20 If you are notified by your insurer that all or any
21 part of the claim or contract is not a covered loss



1 under your homeowners insurance policy, you may
2 rescind the contract by mailing or delivering a signed
3 and dated copy of this rescission notice or any other
4 written notice to [name of residential contractor] at
5 [address of residential contractor's place of
6 business] at any time prior to midnight on the fifth
7 business day after you have received such notice from
8 your insurer. If you rescind, any payment made by you
9 under the contract, except for certain emergency work
10 already performed by the residential contractor, will
11 be returned to you within ten business days following
12 receipt by the residential contractor of your
13 rescission notice.

14 I HEREBY RESCIND THIS TRANSACTION

15 _____

16 (Date)

17

18 _____

19 (Insured's signature)"

20 (e) A residential contractor shall not represent or
21 negotiate, or offer or advertise to represent or negotiate, on



1 behalf of an insured on any homeowners insurance claim in
2 connection with the repair or replacement of roof systems, or
3 the performance of any other exterior repair, replacement,
4 construction, or reconstruction work.

5 (f) Any violation of this section by a residential
6 contractor shall be considered an unfair method of competition
7 and unfair or deceptive act or practice under chapter 480.

8 (g) For purposes of this section:

9 "Residential contractor" means a person or entity in the
10 business of contracting or offering to contract with an insured
11 who is an owner or possessor of residential real estate to
12 repair or replace roof systems or perform any other exterior
13 repair, replacement, construction, or reconstruction work on
14 residential real estate.

15 "Residential real estate" means a new or existing building
16 constructed for habitation by one to four families, including
17 detached garages.

18 "Roof system" includes roof coverings, roof sheathing, roof
19 weatherproofing, and insulation."

20 SECTION 3. New statutory material is underscored.



H.B. NO. 1809

1 SECTION 4. This Act shall take effect on July 1, 2020.

2

INTRODUCED BY: _____



JAN 16 2020



H.B. NO. 1809

Report Title:

Consumer Protection; Residential Contractors; Roof Systems;
Homeowners Insurance; Deductibles; Right of Rescission

Description:

Prohibits residential contractors from offering to pay, in any monetary form, a homeowners insurance deductible as an incentive to encourage the homeowner to hire the contractor. Allows an insured to rescind a contract to repair or replace roof systems or other exterior work within five business days of receiving notice from a homeowners insurer that all or part of the claim or contract is not a covered loss under an homeowners insurance policy.

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