

JAN 17 2020

A BILL FOR AN ACT

RELATING TO ROOFING CONTRACTORS.

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

1 SECTION 1. The legislature finds that there are
2 individuals referred to as "storm chasers" in the roofing
3 industry who make unsolicited offers to homeowners to repair
4 their houses or roofs after significant weather events,
5 predicated on the homeowners receiving insurance proceeds for
6 the repairs. Many of these offers promise homeowners new roofs
7 or roof systems at no cost to the homeowner, convincing
8 homeowners to sign binding contracts to replace the entire roof.
9 In cases where there has been substantial damage that would
10 require a new roof, there is not usually a problem with these
11 types of contracts. However, often a subsequent inspection is
12 performed by a qualified insurance adjuster, who may determine
13 that the roof sustained only minimal or no damage and limits the
14 claim to the cost to repair the damage, rather than the cost to
15 replace the entire roof. In these situations, homeowners find
16 themselves responsible for the cost of an entire roof
17 replacement with minimal or no insurance coverage.



1 Accordingly, the purpose of this Act is to:

- 2 (1) Prohibit roofing contractor from advertising or
3 promising to pay or rebate a property insurance
4 deductible, or any portion thereof, to induce an
5 insured homeowner to purchase goods or services;
- 6 (2) Allow an insured to rescind a contract with the
7 roofing contractor within five business days of
8 receiving notice from their insurer that all or any
9 part of the claim or contract is not a covered loss
10 under the insured's property or casualty insurance
11 policy;
- 12 (3) Require roofing contractors to deliver certain forms
13 to consumers advising them of their legal right to
14 rescind the contract;
- 15 (4) Require roofing contractors to return funds to a
16 consumer in certain circumstances; and
- 17 (5) Prohibit roofing contractors from representing or
18 negotiating, or offering or advertising to represent
19 or negotiate, on behalf of an insured any insurance
20 claim in connection with the repair or replacement of
21 roof systems, or the performance of any other exterior



1 repair, replacement, construction, or reconstruction
2 work.

3 SECTION 2. Chapter 444, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§444- Roofing contractors; promises to pay or rebate
7 insurance deductible; inducement of sale of goods or services;
8 right to rescind. (a) A roofing contractor shall not advertise
9 or promise to pay or rebate a property insurance deductible, or
10 any portion thereof, to induce an insured to purchase goods or
11 services.

12 (b) An insured who has entered into a written contract
13 with a roofing contractor to provide goods and services to be
14 paid from the proceeds of a property or casualty insurance
15 policy claim may rescind the contract at any time prior to
16 midnight on the fifth business day after the insured has been
17 notified by the insurer that all or any part of the claim or
18 contract is not a covered loss under the insured's property or
19 casualty insurance policy. Rescission shall be evidenced by the
20 insured providing written notice of rescission to the roofing
21 contractor at the address stated in the contract. Notice of



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1 rescission, if provided by mail, shall be effective upon deposit
2 in the United States mail, postage prepaid and properly
3 addressed. Notice of rescission shall not take a particular
4 form and is sufficient so long as it indicates, by any form of
5 written expression, the intention of the insured not to be bound
6 by the contract.

7 (c) Prior to entering into a contract with an insured for
8 goods and services to be paid from the proceeds of a property or
9 casualty insurance policy claim, the roofing contractor shall:

10 (1) Furnish the insured in bold-face type of a minimum
11 size of ten-point font, a statement in substantially
12 the following form:

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

19 (2) Furnish each insured a fully completed form in
20 duplicate, captioned "NOTICE OF RESCISSION", which
21 shall be attached to the contract but easily



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1 detachable, and which shall contain boldface type of a
2 minimum size of ten points, the following statement:

3 "NOTICE OF RESCISSION

4 If you are notified by your insurer that all or any
5 part of the claim or contract is not a covered loss
6 under your insurance policy, you may rescind the
7 contract by mailing or delivering a signed and dated
8 copy of this rescission notice or any other written
9 notice to (name of contractor) at (address of
10 contractor's place of business) at any time prior to
11 midnight on the fifth business day after you received
12 such notice from your insurer. If you rescind, any
13 payments made by you under the contract, except for
14 certain emergency work already performed by the
15 contractor, will be returned to you within ten
16 business days following receipt by the contractor of
17 your rescission notice.

18 I HEREBY RESCIND THIS CONTRACT.

19 _____ (date)

20 _____
21 (insured's signature)"



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1 (d) Within ten days after an insured has rescinded a
2 contract pursuant to this section, the roofing contractor shall
3 tender to the insured any payments, partial payments, or
4 deposits made and any note or other evidences of indebtedness.
5 If, however, the roofing contractor has performed any emergency
6 services, acknowledged by the insured in writing to be necessary
7 to prevent damage to the residential property, the roofing
8 contractor is entitled to the reasonable value of such services.
9 Any provision in a contract for goods and services to be paid
10 from the proceeds of an insurance claim for anything except
11 emergency services shall not be enforceable against an insured
12 who has rescinded a contract pursuant to this section.

13 (e) A roofing contractor shall not represent or negotiate,
14 or offer or advertise to represent or negotiate, on behalf of an
15 insured any insurance claim in connection with the repair or
16 replacement of roof systems, or the performance of any other
17 exterior repair, replacement, construction, or reconstruction
18 work.

19 (f) Any violation of this section by a roofing contractor
20 shall be deemed an unfair method of competition and an unfair or
21 deceptive act or practice pursuant to chapters 480 and 481B, and



1 shall be subject to those chapters, as well as the provisions of
2 this chapter.

3 (g) For purposes of this section:

4 "Insured" means any named insured, any additional insured,
5 any vendor, any lessor, or any other party identified as an
6 insured under a property or casualty insurance policy.

7 "Promise to pay or rebate" means granting any allowance
8 against the fees to be charged or paying to the insured any form
9 of compensation, gift, prize, bonus, coupon, credit, referral
10 fee, or other item of monetary value for any reason, including
11 but not limited to permitting the roofing contractor to display
12 a sign or any other type of advertisement at the insured's
13 residential property.

14 "Roofing contractor" means a person, including, but not
15 limited to, a person that is a nonresident roofing contractor,
16 independent contractor, or subcontractor engaged in the business
17 of roofing, gutter, downspout, or siding services for a fee or
18 who offers to engage in or solicits roofing-related services,
19 including construction, installation, renovation, repair,
20 maintenance, alternation, or waterproofing. The term "roofing
21 contractor" does not include a person engaged in the demolition



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1 of a structure or the cleanup of construction waste and debris
 2 that contains roofing material, nor a person providing roofing
 3 services to a residential building for more than four units, nor
 4 a person engaged in building a new home or housing development."

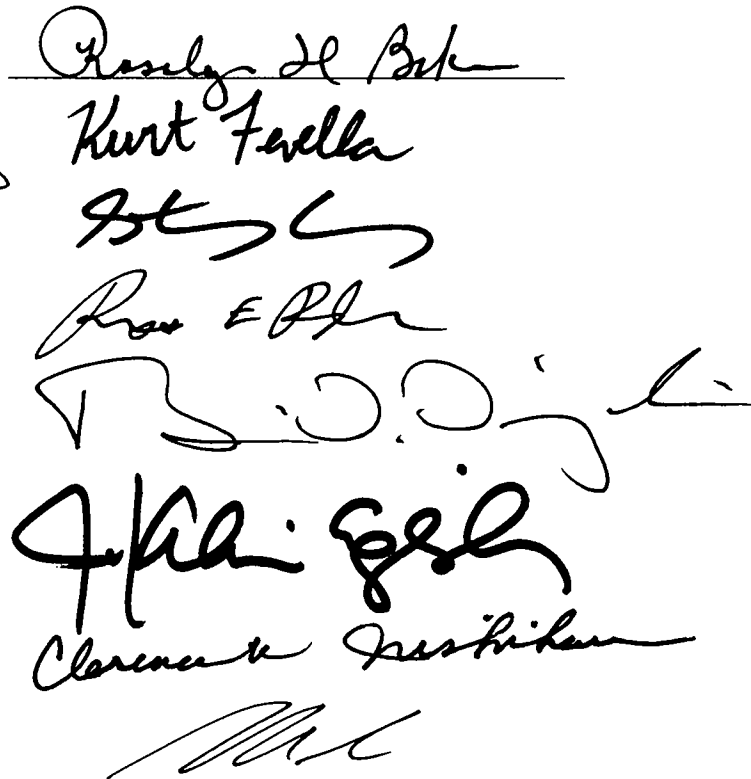
5 SECTION 3. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

8 SECTION 4. New statutory material is underscored.

9 SECTION 5 This Act shall take effect on July 1, 2020.

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INTRODUCED BY:

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Report Title:

Roofing Contractors; Insurance; Right to Rescind

Description:

Prohibits roofing contractors from offering to pay, in any monetary form, an insured's insurance deductible as an incentive to encourage the insured to hire the contractor. Allows insureds to rescind contracts with roofing contractors within five business days of receiving notification from an insurer that all or any part of a claim or contract is not a covered loss under the insured's insurance policy.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

