SENATE BILL NO. 101

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PARSON.

Read 1st time January 12, 2011, and ordered printed.

0733S.01I

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to home exterior contractors, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

of advertisement at the insured's premises.

Section A. Chapter 407, RSMo, is amended by adding thereto one new 2 section, to be known as section 407.725, to read as follows:

407.725. 1. As used in this section, the following terms mean:

- 2 (1) "Residential contractor", a person or entity in the business of 3 contracting or offering to contract with an owner or possessor of 4 residential real estate to repair or replace roof systems or perform any 5 other exterior repair, replacement, construction, or reconstruction 6 work on residential real estate;
- 7 (2) "Residential real estate", a new or existing building 8 constructed for habitation by one to four families, including detached 9 garages;
- 10 (3) "Roof system", includes roof coverings, roof sheathing, roof 11 weatherproofing, and insulation.
- 12 2. A residential contractor shall not advertise or promise to pay or rebate all or any portion of any insurance deductible as an 13 inducement to the sale of goods or services. As used in this section, a 15 promise to pay or rebate includes granting any allowance or offering any discount against the fees to be charged or paying the insured or 16 17 any person directly or indirectly associated with the property any form 18 of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason, including but not limited to 19 20 permitting the residential contractor to display a sign or any other type

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3. A person who has entered into a written contract with a residential contractor to provide goods or services to be paid under a 24property and casualty insurance policy may cancel the contract prior to midnight on the fifth business day after the insured party has received written notice from the insurer that all or any part of the 26claim or contract is not a covered loss under the insurance 27policy. Cancellation shall be evidenced by the insured party giving 2829 written notice of cancellation to the residential contractor at the 30 address stated in the contract. Notice of cancellation, if given by mail, shall be effective upon deposit into the United States mail, postage 31 prepaid and properly addressed to the residential contractor. Notice 32of cancellation need not take a particular form and shall be sufficient 33 if it indicates, by any form of written expression, the intention of the 34insured party not to be bound by the contract.

- 36 4. Before entering a contract referred to in subsection 3 of this 37 section, the residential contractor shall:
 - (1) Furnish the insured party a statement in boldface type of a minimum size of ten points, in substantially the following form:

"You may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. See attached notice of cancellation form for an explanation of this right."; and

(2) Furnish each insured a fully completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract but easily detachable, and which shall contain, in boldface type of a minimum size of ten points, the following statement:

"NOTICE OF CANCELLATION

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of contractor) at (address of contractor's place of business) at any time prior to midnight on the fifth business day after you have received such notice from your insurer. If you cancel, any payments made by you under the contract, except for certain emergency work already

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performed by the contractor, will be returned to you within ten 59 60 business days following receipt by the contractor of your cancellation 61 notice.

62 I HEREBY CANCEL THIS TRANSACTION

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| 64 | (date) |

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66 (insured's signature)".

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- 5. Within ten days after a contract referred to in subsection 3 of this section has been cancelled, the contractor shall tender to the owner or possessor of residential real estate any payments, partial payments, or deposits made and any note or other evidence of indebtedness. If, however, the contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the contractor shall be entitled to the reasonable value of such services. Any provision in a contract referred to in subsection 3 of this section that requires the payment of any fee for anything except emergency services shall not be enforceable against the owner or possessor of residential real estate who has cancelled a contract pursuant to this section.
- 79 6. A residential contractor shall not represent or negotiate, or 80 offer or advertise to represent or negotiate, on behalf of an owner or 81 possessor of residential real estate on any insurance claim in 82 connection with the repair or replacement of roof systems, or the 83 performance of any other exterior repair, replacement, construction, or reconstruction work. 84
- 85 7. Any violation of this section by a residential contractor shall be considered a violation of section 407.020 and subject to the penalties 86 prescribed by section 407.020. 87

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