

SECOND REGULAR SESSION

SENATE BILL NO. 610

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Pre-filed December 6, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4740S.011

AN ACT

To repeal section 407.725, RSMo, and to enact in lieu thereof one new section relating to commercial exterior contractors.

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

Section A. Section 407.725, RSMo, is repealed and one new section
2 enacted in lieu thereof, 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 residential **or**
4 **commercial** real estate to repair or replace roof systems or perform any other
5 exterior repair, replacement, construction, or reconstruction work on **any**
6 residential **or commercial structure situated upon such** real estate;

7 (2) ["Residential real estate", a new or existing building constructed for
8 habitation by one to four families, including detached garages;

9 (3)] "Roof system", includes roof coverings, roof sheathing, roof
10 weatherproofing, and insulation.

11 2. A [residential] contractor shall not advertise or promise to pay or
12 rebate all or any portion of any insurance deductible as an inducement to the sale
13 of goods or services. As used in this section, a promise to pay or rebate includes
14 granting any allowance or offering any discount against the fees to be charged or
15 paying the insured or any person directly or indirectly associated with the
16 property any form of compensation, gift, prize, bonus, coupon, credit, referral fee,
17 or other item of monetary value for any reason.

18 3. A person who has entered into a written contract with a [residential]
19 contractor to provide goods or services to be paid under a property and casualty

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 insurance policy may cancel the contract prior to midnight on the fifth business
21 day after the insured party has received written notice from the insurer that all
22 or any part of the claim or contract is not a covered loss under the insurance
23 policy. Cancellation shall be evidenced by the insured party giving written notice
24 of cancellation to the [residential] contractor at the address stated in the
25 contract. Notice of cancellation, if given by mail, shall be effective upon deposit
26 into the United States mail, postage prepaid and properly addressed to the
27 [residential] contractor. Notice of cancellation need not take a particular form
28 and shall be sufficient if it indicates, by any form of written expression, the
29 intention of the insured party not to be bound by the contract.

30 4. Before entering a contract referred to in subsection 3 of this section, the
31 [residential] contractor shall:

32 (1) Furnish the insured party a statement in boldface type of a minimum
33 size of ten points, in substantially the following form:

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

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

43 NOTICE OF CANCELLATION

44 If you are notified by your insurer that all or any part of the claim or contract is
45 not a covered loss under the insurance policy, you may cancel the contract by
46 mailing or delivering a signed and dated copy of this cancellation notice or any
47 other written notice to (name of contractor) at (address of contractor's place of
48 business) at any time prior to midnight on the fifth business day after you have
49 received such notice from your insurer. If you cancel, any payments made by you
50 under the contract, except for certain emergency work already performed by the
51 contractor, will be returned to you within ten business days following receipt by
52 the contractor of your cancellation notice.

53 I HEREBY CANCEL THIS TRANSACTION

54 _____

55 (date)

56 _____

57 (insured's signature).

58 5. Within ten days after a contract referred to in subsection 3 of this
59 section has been cancelled, the contractor shall tender to the owner or possessor
60 of [residential] real estate any payments, partial payments, or deposits made and
61 any note or other evidence of indebtedness. If, however, the contractor has
62 performed any emergency services, acknowledged by the insured in writing to be
63 necessary to prevent damage to the premises, the contractor shall be entitled to
64 the reasonable value of such services. Any provision in a contract referred to in
65 subsection 3 of this section that requires the payment of any fee for anything
66 except emergency services shall not be enforceable against the owner or possessor
67 of [residential] real estate who has cancelled a contract pursuant to this section.

68 6. A [residential] contractor shall not represent or negotiate, or offer or
69 advertise to represent or negotiate, on behalf of an owner or possessor of
70 [residential] real estate on any insurance claim in connection with the repair or
71 replacement of roof systems, or the performance of any other exterior repair,
72 replacement, construction, or reconstruction work.

73 7. Any violation of this section by a [residential] contractor shall be
74 considered an unfair practice pursuant to the Missouri merchandising practices
75 act as codified in this chapter.

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