SENATE BILL NO. 610

97TH GENERAL ASSEMBLY

2014

4740S.01T

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       Section A. Section 407.725, RSMo, is repealed and one new section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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