

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 220

Introduced by Harr, 8; Lindstrom, 18.

Read first time January 10, 2017

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Insured Homeowners Protection Act; to
2 amend sections 44-8601 and 44-8602, Revised Statutes Cumulative
3 Supplement, 2016; to redefine a term; to provide contract
4 requirements for assignment of rights and benefits; to require
5 notice as prescribed; to declare certain contracts void; to
6 harmonize provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-8601, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 44-8601 Sections 44-8601 to 44-8604 and sections 3 to 5 of this act
4 shall be known and may be cited as the Insured Homeowners Protection Act.

5 Sec. 2. Section 44-8602, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 44-8602 For purposes of the Insured Homeowners Protection Act:

8 (1) Residential contractor means a person in the business of
9 contracting or offering to contract with an owner or possessor of
10 residential real estate to:

11 (a) Repair ~~repair~~ or replace a roof system or perform any other
12 exterior repair, replacement, construction, or reconstruction work on
13 residential real estate; ~~or~~

14 (b) Perform ~~perform~~ interior or exterior cleanup services on
15 residential real estate;

16 (c) Arrange for, manage, or process the work referred to in
17 subdivision (1)(a) or (b) of this section; or

18 (d) Serve as a representative, agent, or assignee of the owner or
19 possessor of residential real estate;

20 (2) Residential real estate means a new or existing building,
21 including a detached garage, constructed for habitation by at least one
22 but no more than four families; and

23 (3) Roof system means and includes roof coverings, roof sheathing,
24 roof weatherproofing, and insulation.

25 Sec. 3. A post-loss assignment of rights or benefits to a
26 residential contractor under a property and casualty insurance policy
27 insuring residential real estate shall be subject to the following
28 requirements:

29 (1) The assignment shall only authorize a residential contractor to
30 be named as a copayee for the payment of benefits under a property and
31 casualty insurance policy covering residential real estate;

1 (2) The assignment shall be provided to the insurer of the
2 residential real estate within five business days after execution;

3 (3) The assignment shall include an itemized description of the work
4 to be done and the materials, labor, and fees for repair or replacement
5 of the damaged residential real estate and the total itemized amount
6 agreed to be paid for the work to be performed;

7 (4) The assignment shall include a statement that the residential
8 contractor has made no assurances that the claimed loss will be fully
9 covered by an insurance contract and shall include the following notice
10 in capitalized fourteen-point type:

11 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR
12 INSURANCE POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE
13 SIGNING.

14 THE ITEMIZED DESCRIPTION OF THE WORK TO BE DONE SHOWN IN THIS
15 ASSIGNMENT FORM HAS NOT BEEN AGREED TO BY THE INSURER. THE INSURER HAS
16 THE RIGHT TO PAY ONLY FOR THE COST TO REPAIR OR REPLACE DAMAGED PROPERTY
17 CAUSED BY A COVERED PERIL.

18 (5) The assignment shall not impair the interest of a mortgagee
19 listed on the declarations page of the property and casualty insurance
20 policy which is the subject of the assignment; and

21 (6) The assignment shall not prevent or inhibit an insurer from
22 communicating with the named insured or mortgagee listed on the
23 declarations page of the property and casualty insurance policy that is
24 the subject of the assignment.

25 Sec. 4. Any written contract, repair estimate, or work order
26 prepared by a residential contractor to provide goods or services to be
27 paid from the proceeds of a property and casualty insurance policy shall
28 include the following notice of the prohibition contained in section
29 44-8604 in capitalized fourteen-point type which shall be signed by the
30 named insured and sent to the named insured's insurance company prior to
31 payment of proceeds under the applicable insurance policy:

1 IT IS A VIOLATION OF THE INSURANCE LAWS OF NEBRASKA TO REBATE ANY
2 PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO
3 ACCEPT A RESIDENTIAL CONTRACTOR'S PROPOSAL TO REPAIR DAMAGED PROPERTY.
4 REBATE OF A DEDUCTIBLE INCLUDES GRANTING ANY ALLOWANCE OR OFFERING ANY
5 DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR
6 PAYING THE INSURED POLICYHOLDER THE DEDUCTIBLE AMOUNT SET FORTH IN THE
7 INSURANCE POLICY.

8 THE INSURED POLICYHOLDER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF
9 THE DEDUCTIBLE. THE INSURANCE FRAUD ACT AND NEBRASKA CRIMINAL STATUTES
10 PROHIBIT THE INSURED POLICYHOLDER FROM ACCEPTING FROM A CONTRACTOR A
11 REBATE OF THE DEDUCTIBLE OR OTHERWISE ACCEPTING ANY ALLOWANCE OR DISCOUNT
12 FROM THE CONTRACTOR TO COVER THE COST OF THE DEDUCTIBLE. VIOLATIONS MAY
13 BE PUNISHABLE BY CIVIL OR CRIMINAL PENALTIES.

14 Sec. 5. A contract entered into with a residential contractor is
15 void if the residential contractor violates any provision of the Insured
16 Homeowners Protection Act.

17 Sec. 6. Original sections 44-8601 and 44-8602, Revised Statutes
18 Cumulative Supplement, 2016, are repealed.