

House Study Bill 186 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act relating to residential contractors and providing a
2 penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 103A.71 Residential contractors.

2 1. As used in this section:

3 a. "*Residential contractor*" means a person in the business
4 of contracting to repair or replace roof systems or perform
5 any other exterior repair, replacement, construction, or
6 reconstruction work on residential real estate or a person
7 offering to contract with an owner or possessor of residential
8 real estate to carry out such work.

9 b. "*Residential real estate*" means a new or existing
10 building, including a detached garage, constructed for
11 habitation by one to four families.

12 c. "*Roof system*" includes roof coverings, roof sheathing,
13 roof weatherproofing, and roof insulation.

14 2. A residential contractor shall not advertise or promise
15 to pay anything of value or rebate any insurance deductible
16 or any portion thereof as an inducement to the sale of goods
17 or services. A promise to pay anything of value or rebate
18 any insurance deductible includes granting any allowance or
19 offering any discount against the fees to be charged or paying
20 an insured or a person directly or indirectly associated with
21 the property any form of compensation, gift, prize, bonus,
22 coupon, credit, referral fee, or other item of monetary value
23 for any reason, including but not limited to permitting the
24 residential contractor to display a sign or any other type of
25 advertisement at the insured's premises.

26 3. A person who has entered into a written contract with
27 a residential contractor providing goods or services to be
28 paid from the proceeds of a property and casualty insurance
29 policy may cancel the contract prior to midnight on the fifth
30 business day after the person has received written notice from
31 the person's insurer that all or part of the claim or contract
32 is not a covered loss under the insurance policy. Cancellation
33 shall be evidenced by the person giving written notice of the
34 cancellation to the residential contractor at the address of
35 the residential contractor's place of business as stated in

1 the contract. Notice of cancellation given by mail shall be
2 effective upon deposit into the United States mail with prepaid
3 postage, if properly addressed to the residential contractor.
4 Notice of cancellation need not take a particular form, and
5 is sufficient if the notice indicates, by any form of written
6 expression, the intent of the insured not to be bound by the
7 contract.

8 4. Before entering into a contract to provide goods or
9 services to be paid from the proceeds of a property and
10 casualty insurance policy, a residential contractor shall
11 provide the insured along with the contract all of the
12 following documents in substantially the following form:

13 a. The following statement in at least ten-point bold type:

14 **RIGHT OF CANCELLATION**

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

21 b. A fully completed duplicate form which shall be attached
22 to the contract, but easily detachable, and which shall contain
23 the following statement in at least ten-point bold type:

24 **NOTICE OF CANCELLATION**

25 If you are notified by your insurer that all or any part
26 of the claim or contract is not a covered loss under your
27 insurance policy, you may cancel the contract by mailing
28 or delivering a signed and dated copy of this cancellation
29 notice or any other written notice of cancellation to (name of
30 contractor) at (address of contractor's place of business) at
31 any time prior to midnight on the fifth business day after you
32 have received such notice from your insurer. If you cancel the
33 contract, any payments made by you under the contract will be
34 returned to you within ten business days following receipt by
35 the contractor of your cancellation notice.

1 I hereby cancel this contract.

2 _____

3 Date

4 _____

5 Insured's signature

6 5. Within ten days after a contract to provide goods
7 or services to be paid from the proceeds of a property and
8 casualty insurance policy has been canceled by notification
9 pursuant to this section, the residential contractor shall
10 tender to the person canceling the contract any payments,
11 partial payments, or deposits made by the person and any note
12 or other evidence of indebtedness. However, if the residential
13 contractor has performed any emergency services, acknowledged
14 by the person in writing to be necessary to prevent damage to
15 the premises, the residential contractor shall be entitled to
16 be paid the reasonable value of such services. Any provision
17 in a contract to provide goods or services to be paid from
18 the proceeds of a property and casualty insurance policy that
19 requires the payment of any fee which is not for emergency
20 services shall not be enforceable against any person who has
21 canceled a contract pursuant to this section.

22 6. A residential contractor shall not represent or
23 negotiate on behalf of, or offer or advertise to represent or
24 negotiate on behalf of, an owner or possessor of residential
25 real estate on any insurance claim in connection with the
26 repair or replacement of roof systems, or the performance
27 of any other exterior repair, replacement, construction, or
28 reconstruction work on the residential real estate.

29 7. A residential contractor violating this section is
30 subject to the penalties and remedies prescribed by this
31 chapter.

32 Sec. 2. APPLICABILITY. This Act applies to contracts
33 entered into on or after the effective date of this Act.

34 EXPLANATION

35 This bill prohibits a residential contractor from

1 advertising or promising to pay anything of value or rebate any
2 insurance deductible or any portion thereof as an inducement
3 to the sale of goods or services. The bill specifies that such
4 a promise to pay or rebate includes granting any allowance or
5 offering any discount against the fees to be charged or paying
6 an insured or a person associated with the property any form
7 of compensation, gift, prize, bonus, coupon, credit, referral
8 fee, or other item of monetary value for any reason, including
9 permitting the residential contractor to display a sign or any
10 other type of advertisement at the insured's premises.

11 The bill provides that a person who has entered into a
12 written contract with a residential contractor to provide
13 goods or services to be paid from the proceeds of a property
14 and casualty insurance policy may cancel the contract prior
15 to midnight on the fifth business day after the person has
16 received written notice from the insurer that all or part of
17 the claim or contract is not a covered loss under the insurance
18 policy. The bill specifies that cancellation is evidenced by
19 the person giving written notice of the cancellation to the
20 residential contractor at the residential contractor's address
21 as stated in the contract. The bill provides that notice
22 of cancellation given by mail becomes effective upon deposit
23 into the United States mail with prepaid postage, if properly
24 addressed to the residential contractor. The bill specifies
25 that notice of cancellation need not take a particular form,
26 and is sufficient if the notice indicates, by any form of
27 written expression, the intent of the insured not to be bound
28 by the contract.

29 The bill provides that before entering into a contract
30 to provide goods or services to be paid from the proceeds
31 of a property and casualty insurance policy, a residential
32 contractor must provide the insured with two documents, which
33 must be formatted substantially as set out in the bill, along
34 with the contract. The first document notifies the person of
35 the person's right to cancel the contract at any time before

1 midnight on the fifth business day after receiving written
2 notification from the person's insurer that all or any part of
3 the claim or contract is not a covered loss under the person's
4 insurance policy. The first document must direct the attention
5 of the person to the second document, which must be attached
6 to the contract. The second document is a cancellation notice
7 which the person may return to the residential contractor to
8 exercise the person's cancellation rights as provided by the
9 bill.

10 The bill provides that within 10 days after a contract to
11 provide goods or services to be paid from the proceeds of
12 a property and casualty insurance policy has been canceled
13 pursuant to the bill, the residential contractor must tender
14 to the person any payments, partial payments, or deposits made
15 by the person and any note or other evidence of indebtedness.
16 The bill provides that if the residential contractor performed
17 any emergency services which were acknowledged by the insured
18 in writing to be necessary to prevent damage to the premises,
19 the residential contractor shall be entitled to the reasonable
20 value of such services. The bill provides that any provision
21 in a contract to provide goods or services to be paid from
22 the proceeds of a property and casualty insurance policy that
23 requires the payment of a fee which is not for emergency
24 services is unenforceable against any person who has canceled a
25 contract pursuant to the bill.

26 The bill prohibits a residential contractor from
27 representing or negotiating on behalf of, or offering or
28 advertising to represent or negotiate on behalf of, an owner
29 or possessor of residential real estate on any insurance claim
30 in connection with the repair or replacement of roof systems,
31 or the performance of any other exterior repair, replacement,
32 construction, or reconstruction work.

33 A violation of the bill by a residential contractor is a
34 simple misdemeanor pursuant to Code section 103A.21(3). A
35 simple misdemeanor is punishable by confinement for no more

1 than 30 days or a fine of at least \$65 but not more than \$625
2 or by both. The state building code commissioner may file a
3 petition in the district court and obtain injunctive relief for
4 any violation of the bill pursuant to Code section 103A.21(3).
5 The bill applies to contracts entered into on or after the
6 effective date of the bill.