INSURED HOMEOWNERS PROTECTION ACT

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill enacts the Insured Homeowners Protection Act.

Highlighted Provisions:

This bill:

- defines terms;
- enacts provisions regarding a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy;
- prohibits a residential contract from rebating or offering to rebate any portion of the insured's deductible to induce the sale of a good or service;
- requires a residential contractor to provide certain notices to an insured regarding rights and violations of law; and
- declares void an assignment of rights or benefits that violates the Insured Homeowners Protection Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-50-102, as enacted by Laws of Utah 2013, Chapter 160

H.B. 199

ENACTS:

13-50-301, Utah Code Annotated 1953

13-50-302, Utah Code Annotated 1953

13-50-303, Utah Code Annotated 1953

13-50-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-50-102** is amended to read:

13-50-102. Definitions.

As used in this chapter:

(1) "Rebate" means:

(a) any allowance or discount against charged fees; or

(b) payment of any form of compensation, except for an item of nominal value, to:

(i) an insured; or

(ii) a person directly or indirectly associated with a residential building.

[~~(1)~~] (2) "Repair work" means any work done to siding, gutters, a roof system, or a window system to repair damage caused by wind or hail.

[~~(2)~~] (3) "Residential building" means a single or multiple family dwelling of up to four units.

[~~(3)~~] (4) "Residential contractor" means a person that, for compensation, other than wages as an employee, contracts or offers to contract to:

(a) perform repair work on a residential building[~~.~~];

(b) arrange for, manage, or process repair work on a residential building; or

(c) serve as a representative, agent, or assignee of the owner or possessor of a residential building for purposes of repair work on the residential building.

[~~(4)~~] (5) "Roof system" includes roof coverings, roof sheathing, roof weatherproofing, roof framing, roof ventilation, and roof insulation.

Section 2. Section **13-50-301** is enacted to read:

Part 3. Insured Homeowners Protection Act

13-50-301. Post-loss assignment of rights or benefits to a residential contractor.

(1) A post-loss assignment of rights or benefits to a residential contractor under a

property and casualty insurance policy insuring a residential building:

(a) may authorize a residential contractor to be named as a copayee for the payment of benefits under a property and casualty insurance policy covering the residential building;

(b) shall include:

(i) an itemized description of the work to be done on the insured residential building; and

(ii) the total amount the insured agreed to pay for the work described in Subsection (1)(b)(i);

(c) shall include a statement that the residential contractor has made no assurances that an insurance contract will fully cover the claimed loss;

(d) shall include a notice in substantially the following form and in capitalized 14-point type:

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

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

(e) may not impair the interest of a mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment; and

(f) may not prevent or inhibit an insurer from communicating with a named insured listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment.

(2) A party to the assignment described in Subsection (1) shall deliver the assignment to the insurer of the residential building within five business days after the day on which the assignment is executed.

Section 3. Section **13-50-302** is enacted to read:

13-50-302. Residential contractor, prohibited acts.

A residential contractor may not rebate or offer to rebate any portion of an insurance deductible as an inducement to the sale of a good or service.

Section 4. Section **13-50-303** is enacted to read:

13-50-303. Violation notice.

(1) Any written contract, repair estimate, or work order that a residential contractor prepares to provide a good or service paid for from the proceeds of a property and casualty insurance policy shall include a notice of the prohibition described in Section 13-50-302 in substantially the following form and in capitalized 14-point type:

"IT IS A VIOLATION OF UTAH LAW FOR A RESIDENTIAL CONTRACTOR TO REBATE ANY PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO ACCEPT A RESIDENTIAL CONTRACTOR'S PROPOSAL TO REPAIR DAMAGED PROPERTY. REBATE OF A DEDUCTIBLE INCLUDES GRANTING ANY ALLOWANCE OR OFFERING ANY DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR PAYING THE INSURED POLICYHOLDER THE DEDUCTIBLE AMOUNT SET FORTH IN THE INSURANCE POLICY.

THE INSURED POLICY HOLDER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF THE DEDUCTIBLE.".

(2) Under any agreement in which a residential contractor provides a good or service paid for from the proceeds of a property and casualty insurance policy, no payment may be made to the residential contractor until:

(a) the named insured signs the notice described in Subsection (1); and

(b) the residential contractor delivers the notice signed in accordance with Subsection (2)(a) to the named insured's insurance company.

Section 5. Section **13-50-304** is enacted to read:

13-50-304. Violation of part.

A post-loss assignment of rights or benefits entered into with a residential contractor is void if the residential contractor violates a provision of this part.