WEST VIRGINIA CODE CHAPTER 46A ARTICLE 6M

WV Legislature

§46A-6M-1. Definitions.

As used in this article:

(1) "Emergency repair" means a repair that is necessary to prevent the risk of imminent injury to a person or further damage to the homeowner's residence;

(2) "Residential real estate" means any real property located in West Virginia, upon which is constructed or intended to be constructed a dwelling;

(3) "Roof system" means the components of a roof to include, but not be limited to, covering, framing, insulation, sheathing, ventilation, guttering and weatherproofing; and

(4) "Roofing contractor" means a person or entity in the business of contracting or offering to contract with an owner of residential real estate to repair or replace a roof system.

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§46A-6M-2. Consumer's right to cancel residential roofing contract.

(a) An owner, who on or after July 1, 2015, enters into a contract with a roofing contractor to provide goods or services related to a roof system of residential real estate and who expects the goods or services to be paid from the proceeds of a property and casualty insurance policy, may cancel the contract prior to midnight of the fifth business day after the owner has received notice from the insurer that all or part of the claim is not a covered loss under the property and casualty insurance policy.

(b) The contract with the roofing contract is cancelled when the owner either personally delivers written notice of cancellation to the roofing contractor; deposits the written notice of cancellation in the United States mail, postage prepaid and addressed to the roofing contractor at the address stated in the contract; transmits the notice of cancellation to the roofing contractor by facsimile; or sends an e-mails containing a notice of cancellation.

(c) The owner may use any form of notice of cancellation that is sufficient to indicate, by any form of written expression, the intention of the owner not to be bound by the contract.

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§46A-6M-3. Roofing contractor's duty to disclose rights of the consumer via standard form.

Prior to entering into a contract on or after July 1, 2015, for the provision of goods or services relating to the repair or replacement of any part of a roof system of residential real estate as provided in section two of this article, a roofing contractor shall furnish the owner of the residential real estate with:

(1) The mailing address of the roofing contractor through which written communication may be received;

(2) The telephone number of the roofing contractor and, if applicable, the facsimile number and e-mail address of the contractor;

(3) A statement in at least ten point boldface type that states: "Because you expect all or part of the cost of the roofing repair or replacement to be paid out of the proceeds of a property and casualty insurance policy, you may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. This right to cancel is in addition to any other rights of cancellation you may have under state or federal law or rule or regulation. However, be advised that if you cancel this contract, you are still responsible to pay the reasonable and customary expenses of any emergency repair services you authorized. See the attached Notice of Cancellation form for an explanation of this right."; and

(4) A fully completed form in duplicate, under the conspicuous caption "NOTICE OF CANCELLATION," and attached to, but easily detachable from the contract, in at least ten point boldface type that shall read as follows:

"NOTICE OF CANCELLATION

(enter date of transaction)

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel this contract without penalty or monetary obligation, except where you have authorized emergency repair services for which you are still responsible for payment, before midnight of the fifth business day after you have received notice from your insurer. To cancel this transaction you may use any of the following methods: Mail or otherwise deliver a signed and dated copy of this cancellation notice, or any other written notice of cancellation which you- sign-and date, to (enter physical address of roofing contractor), or e-mail a notice of cancellation to (enter e-mail address of roofing contractor), or transmit a notice of cancellation to (enter facsimile number of roofing contractor), not later than midnight of the fifth day after you receive notice from your insurer. By signing below, you certify that your insurer has denied all or part of your claim.

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I HEREBY ATTEST THAT I HAVE BEEN NOTIFIED BY THE INSURER THAT ALL OR PART OF MY CLAIM HAS BEEN DENIED AND I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's Signature)"

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§46A-6M-4. Advanced payments prohibited; refunds; emergency repairs; unenforceable contract.

(a) Except as provided in subsection (c) of this section, on or after July 1, 2015, a roofing contractor may not require any advance payments under a contract for the repair or replacement of any part of a roof system of a residential real estate, when payment is expected to be made from the proceeds of a property or casualty insurance policy until the cancellation period, as provided in section two of this article has expired.

(b) Within ten days after a contract has been canceled, as provided in section two of this article, a roofing contractor shall tender to the owner, any payments, partial payments, or deposits made, and any note or other evidence of indebtedness, except as provided in subsection (c) of this section.

(c) A roofing contractor that performs any emergency repair services authorized by the owner of residential real estate, may collect a reasonable and customary amount for the emergency repair services performed for the authorizing owner.

(d) Any provision in a contract executed on or after July 1, 2015, for the repair of a roof system of residential real estate, as provided in sections one and five of this article, that requires the payment of any fee, except for repair services performed under subsection (c) of this section, is not enforceable against any person who has canceled a contract under section two of this article.

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§46A-6M-5. Roofing contractors; prohibited acts.

(a) Notwithstanding the provisions relating to public adjusters, as defined in section one-e, article twelve-b, chapter thirty-three of this code, on or after July 1, 2015, a roofing contractor may not represent, negotiate, or advertise to represent or negotiate on behalf of an owner of residential real estate on any insurance claim in connection with the repair or replacement of a roof system. Nothing in this subsection may be construed to prohibit a roofing contractor from:

(1) Providing an estimate for repair, replacement, construction or reconstruction of the roof system to the owner of residential real estate; or

(2) Conferring with an insurance company's representative about damage to the property after a claim has been submitted by the owner of residential real estate.

(b) On or after July 1, 2015, a roofing contractor or person representing a roofing contractor may not:

(1) Offer to pay or rebate all or any portion of an insurance deductible or claims proceeds as an inducement to the sale of goods or services related to a residential roofing contract;

(2) Pay the owner of residential real estate for whom services have been performed pursuant to this article for any reason or any form of compensation, including, but not limited to a:

(A) Bonus;

(B) Coupon;

(C) Credit;

(D) Gift;

(E) Prize;

(F) Referral fee; or

(G) Any other tangible item having a monetary value.

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§46A-6M-6. Private remedies for violation of article; criminal penalties.

(a) If a roofing contractor violates the provisions of this article, the owner or the applicable insurer may bring an action against the roofing contractor in a court of competent jurisdiction for damages sustained by the owner or insurer as a consequence of the roofing contractor's violation.

(b) A roofing contractor who willfully violates the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or confined in jail not more than one year, or both fined and confined.

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