

SENATE BILL No. 78

AN ACT concerning contracts; relating to assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate; rental and lease agreements; protections for tenants and lessees related to domestic violence, sexual assault, human trafficking or stalking.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:

(1) "Assignment" means a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate;

(2) "residential contractor" means a person in the business of contracting or offering to contract with an owner or possessor of residential real estate to:

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

(B) perform interior or exterior repair and cleanup services on residential real estate;

(C) arrange for, manage or process the work referred to in subparagraph (A) or (B); or

(D) serve as a representative, agent or assignee of the owner or possessor of residential real estate;

(3) "residential real estate" means a new or existing building constructed for habitation by at least one but no more than four families and any related detached structures; and

(4) "roof system" means and includes roof coverings, roof deck, roof ventilation, roof weatherproofing and insulation.

(b) (1) An assignment may authorize a residential contractor to be named as a copayee for the payment of benefits under a property and casualty insurance policy insuring residential real estate.

(2) An assignment shall include the following notice in capitalized 14-point type:

"AN ASSIGNMENT OF RIGHTS OR BENEFITS IS VOLUNTARY. YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS THAT YOU HAVE UNDER YOUR INSURANCE POLICY. WITH AN ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU, THE INSURED POLICY HOLDER, HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING.

THE INSURER MAY ONLY PAY FOR THE COST TO REPAIR OR REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL, SUBJECT TO THE TERMS OF THE POLICY."

(3) The residential contractor shall provide a copy of the assignment to the insurer of the residential real estate within three business days after the assignment is signed.

(4) An assignment shall provide that, in addition to any other right to revoke, the named insured has the right to cancel the assignment within five business days after execution.

(5) An assignment shall not:

(A) 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; or

(B) prevent or inhibit an insurer from communicating with the named insured or mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment.

(c) The commissioner of insurance shall strictly enforce the provisions of K.S.A. 40-2404(9)(n), and amendments thereto, which requires insurers to promptly provide a named insured a reasonable

explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(d) An assignment is void if the residential contractor:

(1) Violates any provision of this section; or

(2) is not in compliance with any of the requirements of the Kansas roofing registration act.

(e) Any violation of this section is a deceptive act or practice under the Kansas consumer protection act.

(f) This section shall be a part of and supplemental to the Kansas consumer protection act.

Sec. 2. (a) (1) An applicant shall not be denied tenancy on the basis of, or as a direct result of, the fact that the applicant is a protected person if the applicant otherwise qualifies for tenancy in or occupancy of the premises.

(2) A tenant or lessee shall not be evicted from the premises or found to be in violation of a rental or lease agreement on the basis of, or as a direct result of, the fact that the tenant or lessee is a protected person if the tenant or lessee otherwise qualifies for tenancy in or occupancy of the premises.

(b) (1) A tenant or lessee shall not be liable for rent for the period after the tenant or lessee vacates the premises that is the subject of the rental or lease agreement if the tenant or lessee:

(A) Is a protected person; and

(B) notifies the landlord or property owner as required in subsection

(c).

(2) In any action brought against a tenant or lessee under Kansas law that seeks recovery of rent, the tenant or lessee shall have an affirmative defense and not be liable for rent for the period after the tenant or lessee vacated the premises that is the subject of the rental or lease agreement if, by a preponderance of the evidence, the court finds that the tenant or lessee:

(A) Was a protected person on the date the tenant or lessee vacated the premises that is the subject of the rental or lease agreement; and

(B) notified the landlord or property owner as required in subsection

(c).

(3) This section shall not affect a tenant or lessee's liability for late or unpaid rent or other amounts owed to the landlord for the period before the tenant or lessee vacates the premises that is the subject of the rental or lease agreement.

(c) An applicant, tenant or lessee qualifies for the protections under this section if the applicant, tenant or lessee is a protected person and provides a statement regarding domestic violence, sexual assault, human trafficking or stalking to the landlord or property owner. If the landlord or property owner requests, the applicant, tenant or lessee shall provide documentation of the domestic violence, sexual assault, human trafficking or stalking, which may be in any of the following forms:

(1) A document signed by the victim and any of the following individuals from whom the victim has sought assistance relating to domestic violence, sexual assault, human trafficking or stalking, or the effects of such abuse: A person licensed by the state board of healing arts to practice medicine and surgery; a person licensed as a physician assistant by the state board of healing arts; a person licensed by the board of nursing; or a person licensed by the behavioral sciences regulatory board. The document must declare under penalty of perjury that the licensed person holds the opinion, in their professional judgment within their scope of practice, that the incident of domestic violence, sexual assault, human trafficking or stalking that is the basis for protection under this section occurred; or

(2) a court order granting relief to the protected person relating to the

alleged domestic violence, sexual assault, human trafficking or stalking that is the basis for protection under this section.

(d) The submission of false information by an applicant, tenant or lessee under this section may be a basis for a denial of tenancy, eviction or a violation of a rental or lease agreement.

(e) A landlord or property owner may impose a reasonable termination fee not to exceed one month's rent on a tenant or lessee who requests termination of a rental or lease agreement under the provisions of this section before the expiration date of such agreement. Such termination fee may only be imposed if it is contained in the terms of the rental or lease agreement.

(f) As used in this section:

(1) "Protected person" means a person who, during the preceding 12 months, has been, is or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking or stalking; and

(2) "domestic violence," "human trafficking," "sexual assault" and "stalking" mean the same as in K.S.A. 2018 Supp. 75-452, and amendments thereto.

(g) A tenant or lessee shall not waive, and a landlord or property owner shall not require a tenant or lessee to waive, any rights under this section in a rental or lease agreement.

(h) Notwithstanding a termination of a protected person's rental or lease agreement under this section, the rental or lease agreement shall continue for any remaining tenants or lessees.

(i) In an action against a landlord or property owner for a violation of this section, the court may award statutory damages of \$1,000. The court may also award reasonable attorney fees and costs.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.