

SENATE BILL 2548

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 47;
Title 56 and Title 62, relative to unfair trade
practices by persons and legal entities providing
roofing goods or services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following language as a new, appropriately designated subdivision:

() Failing to comply with part 30 of this chapter;

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following language as a new, appropriately designated part:

47-18-3001. As used in this part, unless the context otherwise requires:

(1) "Agent" means any officer, director, servant or employee of a roofing contractor or any other person or legal entity authorized to act on behalf of the roofing contractor;

(2) "Nonresident contractor" means any contractor or subcontractor who:

(A) Has not established and maintained a place of business as a roofing contractor in this state within the preceding year;

(B) Claims residency in another state, or

(C) Has not submitted a franchise and excise tax return as a resident of this state within the preceding year if the entity is a corporation or limited partnership;

(3) "Roofing contractor":

(A) Means any person or legal entity, including a subcontractor and nonresident contractor:

(i) Engaged in the business of commercial or residential roofing services for a fee; or

(ii) Who offers to engage in or solicits roofing goods or services; and

(B) Does not mean a person or legal entity engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material; and

(4) "Roofing goods or services" includes, but is not limited to, construction, installation, renovation, repair, maintenance, alteration, and waterproofing.

47-18-3002.

(a) A roofing contractor or agent contacting any person or policyholder in this state for the purpose of soliciting roofing goods or services where an insurance claim has been made or is anticipated shall disclose the following information to the solicited person or policyholder:

(1) Whether or not the roofing contractor is a nonresident contractor;

(2) The numbers of all contractor licenses or registrations that the roofing contractor holds in this state and other states; and

(3) The name and address of any other person or entity on behalf of whom the soliciting roofing contractor or agent is acting.

(b)

(1) The disclosures described in subsection (a) shall be made both orally and in writing, which may include electronic solicitations.

(2) The roofing contractor on behalf of whom the solicitation is made shall maintain records documenting that the disclosures described in subsection

(a) were made and retain that record for a period of two (2) years from the date of first contact with the solicited person or policyholder.

47-18-3003.

(a)

(1) A roofing contractor or agent that prepares a repair estimate for roofing goods or services where an insurance claim has been made or is anticipated shall disclose the following information to the solicited person or policyholder:

(A) A precise description and location of all damage claimed or included on the repair estimate;

(B) Documentation, available for inspection at any time, to support the damage claimed or included on the estimate, including but not limited to photos, digital images, or other media that is clearly labeled indicating slope or area on the dwelling;

(C) A detailed description and itemization of any emergency repairs already completed;

(D) If damaged areas are not included on the repair estimate, a specification of those areas and any reason for their exclusion from the repair estimate;

(E) Whether or not the property was inspected prior to the preparation of the estimate and the nature of that inspection, specifically if the roof was physically accessed or not; and

(F) That there are no assurances that the claimed loss will be covered by an insurance policy.

(b) The disclosures described in subsection (a) shall:

- (1) Be made in writing;
- (2) Included on the repair estimate;
- (3) Signed and dated by the solicited person or policyholder; and
- (4) Provided along with any submission to an insurance company as part of a claim for damages, including any subsequent or supplemental claim for additional damage that is submitted or prepared for submission to an insurer.

47-18-3004.

Any contract for roofing repairs shall contain the following:

- (1) An itemized estimate of repair costs meeting the requirements of § 47-18-3003 and including the cost of raw materials, the hourly labor rate and the number of hours for each item of repair or a unit cost basis; and
- (2) A disclosure that the solicited person or policyholder is responsible for payment for any work performed if the insurer denies payment or coverage on any part of the loss.

47-18-3005.

Before entering into a contract for roofing goods or services with a solicited person or policyholder, the roofing contractor or agent shall furnish the solicited person or policyholder with the following:

- (1) A statement in boldface type of a minimum size of ten (10) points, in substantially the following form: "You may cancel this contract at any time within three (3) business days after you have been notified that your insurance company has, in whole or part, denied your claim to pay for the goods or services to be provided under this roofing contract. See attached notice of cancellation form for an explanation of this right."; and

(2) A fully completed form, in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the roofing contract and easily detachable, and which shall contain in boldface type of a minimum size of ten (10) points the following information:

NOTICE OF CANCELLATION

If your insurance company, in whole or in part, denies your claim to pay for goods or services to be provided under this contract, you may cancel this roofing contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of roofing contractor) at (address of roofing contractor's place of business) at any time within three (3) business days after you have been notified that your claim has been denied. If you cancel, any payments made by you under the contract will be returned within ten (10) business days following receipt by the roofing contractor of your roofing contract cancellation notice.

I HEREBY CANCEL THIS TRANSACTION.

.....

(date)

.....

(Solicited person or policyholder's signature)

47-18-3006.

(a) A solicited person or policyholder who has entered into a written contract with a roofing contractor or agent to provide roofing goods or services, to be paid by the solicited person or policyholder from the proceeds of a property or casualty insurance policy, may cancel the contract within seventy-two (72) hours after the solicited person

or policyholder receives written notice from the insurance company that the claim has been denied, in whole or in part.

(b) Cancellation of the contract is evidenced by the solicited person or policyholder giving written notice of cancellation to the roofing contractor at the address stated in the contract.

(c) Notice of roofing contract cancellation:

(1) If given by mail, is effective upon deposit in a mailbox, properly addressed to the roofing contractor and postage prepaid; and

(2) Need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the solicited person or policyholder not to be bound by the contract.

47-18-3007.

(a) In circumstances in which payment may be made from the proceeds of a property and casualty insurance policy, no roofing contractor or agent shall require any payments from a solicited person or policyholder until the roofing contract cancellation period has expired.

(b) Within ten (10) days after a roofing contract has been canceled, the roofing contractor or agent shall tender to the solicited person or policyholder any payments made by the solicited person or policyholder and any note or other evidence of indebtedness. However, if the roofing contractor has performed and the solicited person or policyholder previously expressly agreed to any emergency services, then the roofing contractor is entitled to reasonable compensation for such services as long as the solicited person or policyholder has received a detailed description and itemization of charges for those services. No provision in the roofing contract requiring payment of any

fee for anything except emergency services shall be enforceable against any solicited person or policyholder that has canceled a roofing contract pursuant to this section.

47-18-3008.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act, compiled in part 1 of this chapter.

(b) A violation of this part also subjects a roofing contractor or agent to the following, as applicable:

- (1) Penalties described in § 62-6-134;
- (2) Revocation or suspension in § 62-6-118; and
- (3) Penalties described in § 62-6-120.

SECTION 3. This act shall become effective July 1, 2012, the public welfare requiring it.