

1 **INSURED HOMEOWNERS PROTECTION ACT**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Rex P. Shipp**

5 Senate Sponsor: Evan J. Vickers

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts the Insured Homeowners Protection Act.

10 **Highlighted Provisions:**

11 This bill:

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

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **13-50-102**, as enacted by Laws of Utah 2013, Chapter 160

28 ENACTS:

29 **13-50-301**, Utah Code Annotated 1953

- 30 [13-50-302](#), Utah Code Annotated 1953
- 31 [13-50-303](#), Utah Code Annotated 1953
- 32 [13-50-304](#), Utah Code Annotated 1953

33

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

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

36 **13-50-102. Definitions.**

37 As used in this chapter:

38 (1) "Rebate" means:

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

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

41 (i) an insured; or

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

43 ~~(1)~~ (2) "Repair work" means any work done to siding, gutters, a roof system, or a
44 window system to repair damage caused by wind or hail.

45 ~~(2)~~ (3) "Residential building" means a single or multiple family dwelling of up to
46 four units.

47 ~~(3)~~ (4) "Residential contractor" means a person that, for compensation, other than
48 wages as an employee, contracts or offers to contract to:

49 (a) perform repair work on a residential building[-];

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

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

53 ~~(4)~~ (5) "Roof system" includes roof coverings, roof sheathing, roof weatherproofing,
54 roof framing, roof ventilation, and roof insulation.

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

56 **Part 3. Insured Homeowners Protection Act**

57 **13-50-301. Post-loss assignment of rights or benefits to a residential contractor.**

58 (1) A post-loss assignment of rights or benefits to a residential contractor under a
59 property and casualty insurance policy insuring a residential building:

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

62 (b) shall include:

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

64 and

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

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

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

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

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

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

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

83 (2) A party receiving the assignment described in Subsection (1) shall:

84 (a) deliver the assignment to the insurer of the residential building within five business
85 days after the earlier of the day on which:

86 (i) the assignment is executed; or
 87 (ii) repair work begins on the residential building; and
 88 (b) cooperate with the insurer of the residential building in an investigation into the
 89 claimed loss by:

90 (i) providing each document and record the insurer requests; and
 91 (ii) complying with each post-loss duty included in the insurance policy.

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

93 **13-50-302. Residential contractor, prohibited acts.**

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

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

97 **13-50-303. Violation notice.**

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

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

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

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

114 made to the residential contractor until:

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

116 (b) the residential contractor delivers the notice signed in accordance with Subsection

117 (2)(a) to the named insured's insurance company.

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

119 **13-50-304. Violation of part.**

120 A post-loss assignment of rights or benefits entered into with a residential contractor is

121 void if the residential contractor violates a provision of this part.