

ENROLLED ACT NO. 85, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

AN ACT relating to consumer protection; providing disclosure requirements for exterior storm damage repair solicitations, proposals and repair contracts; providing for cancellation of exterior storm damage repair contracts and cancellation waiver; providing remedies; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 40-12-701 through 40-12-706 are created to read:

ARTICLE 7
EXTERIOR STORM DAMAGE REPAIR CONTRACTS

40-12-701. Definitions.

(a) As used in this article:

(i) "Consumer" means an individual who enters into a transaction primarily for personal, family or household purposes;

(ii) "Contractor" means a person or entity in the business of contracting or offering to contract with an owner or possessor of residential real estate to repair or replace roof, siding or gutter systems;

(iii) "Emergency repairs" includes only those repairs from exterior storm damage reasonably necessary to prevent immediate or imminent harm to a residential building until a consumer and contractor can contract for exterior storm damage repair pursuant to the provisions of this article;

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(iv) "Exterior storm damage" means damage caused by wind, hail or another weather-related event to the siding system, gutter system, roof system or window and skylight system of a residential building;

(v) "Residential building" means a single or multiple family dwelling of up to four (4) units and ancillary buildings or structures, including farm and ranch structures, if any;

(vi) "Roof system" includes roof coverings, roof sheathing, roof weatherproofing, roof framing, roof ventilation and roof insulation.

40-12-702. Requirements for exterior storm damage repair solicitations and advertisements.

(a) An individual or other entity contacting a consumer for the purposes of soliciting exterior storm damage repair services, including general advertisements for these services, shall disclose the following information to the consumer:

(i) The business name;

(ii) Whether the contractor has general liability insurance and any licensure required by the authority having jurisdiction.

(b) Beginning July 1, 2017, the contractor license or registration number for the jurisdiction in which an individual or other entity holds a contractor's license, if the authority having jurisdiction requires such a license,

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shall appear in all contracts, bids and advertisements involving exterior storm damage repair services.

(c) Contractors soliciting exterior storm damage repair services in this state shall not:

(i) Pay, advertise or promise to pay or rebate all or any portion of any insurance deductible. Contractors may pay or rebate any discount available for the use of any goods or services;

(ii) Pay any compensation directly or indirectly to any person associated with the property unless disclosed to the consumer in writing;

(iii) Accept money or any form of compensation in exchange for allowing another contractor to use its business name or contractor's license number for the purpose of misrepresenting a contractor's identity as a licensed contractor;

(iv) Offer to exclusively represent, advertise to exclusively represent or require by contract the right to exclusively represent a consumer with respect to any insurance claim in connection with exterior storm damage repair services; or

(v) Claim to be, or act as, an adjuster as defined in W.S. 26-1-102(a)(i) or an insurance consultant as defined in W.S. 26-9-220, with respect to any insurance claim.

40-12-703. Disclosure requirements for exterior storm damage repair proposals.

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(a) An individual or other entity who prepares a repair proposal for exterior storm damage repair services in anticipation of entering into an exterior storm damage repair contract shall disclose the following information to the consumer:

(i) A precise description and location of all damage claimed or included in the repair proposal;

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

(iii) If damaged areas are excluded from the repair proposal, identification of those areas and any reasons for their exclusion.

(b) The disclosures required under subsection (a) of this section shall be made in writing and shall be included in the repair proposal.

40-12-704. Disclosure requirements for exterior storm damage repair contracts.

Any contract for exterior storm damage repairs shall include a copy of a repair proposal that contains the disclosures required under W.S. 40-12-703(a).

40-12-705. Exterior storm damage repair contracts; right to cancel; waiver.

(a) A consumer who has entered into a written contract with a contractor to provide exterior storm damage repair goods and services has the right to cancel the contract within three (3) business days of the date on

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which the contract was entered into or, if the services are to be paid directly by or on behalf of the consumer from the proceeds of a property or casualty insurance policy, within three (3) business days after the consumer has received notice in writing from the insurer that the claim has been denied, in whole or in part, whichever is later. Cancellation is evidenced by the consumer giving written notice of cancellation to the contractor at the address stated in the contract. Notice of cancellation may be in electronic form, effective the date of the electronic transmission or, if given by mail, is effective upon postmark, properly addressed to the contractor and postage prepaid. Written notice also may be given to the contractor by personal delivery. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the consumer not to be bound by the contract.

(b) The consumer may waive the three (3) day cancellation period if the insurer has provided written notice that the claim has been approved. The waiver shall be in writing, signed by the consumer and accompanied by a copy of the insurer's notice of approval.

(c) Before entering a contract referred to in subsection (a) of this section, the contractor shall:

(i) Furnish the consumer with a statement in boldface type of a minimum size of twelve (12) points, in substantially the following form: "You may cancel this contract at any time within three (3) business days of the date on which the contract was entered into or within three (3) business days after you have been notified that your

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insurer has, in whole or in part, denied your claim to pay for the goods and services to be provided under this contract, whichever is later. See attached notice of cancellation form for an explanation of this right. You may waive this right if your insurer has provided written notice that your claim has been approved. The waiver must be in writing, signed by you and accompanied by a copy of the insurer's notice of approval."; and

(ii) Furnish each consumer a fully completed form captioned, "NOTICE OF CANCELLATION," which shall be attached to or accompany the contract and which shall contain in boldface type of a minimum size of twelve (12) points the following information and statements:

"NOTICE OF CANCELLATION

You may cancel this contract within three (3) business days from when it is entered into for any reason or, if your insurer in whole or in part denies your claim to pay for goods and services to be provided under this contract, you may cancel the contract by mailing or delivering (including via electronic transmission) a signed and dated copy of this cancellation notice or any other written notice - to (name of contractor) at (address of contractor's place of business, e-mail address and facsimile number if applicable) at any time within three (3) business days of the date on which the contract was entered into or within three (3) business days after you have been notified that your claim has been denied in whole or in part, whichever is later. Notice of cancelation, if in electronic form, is effective the date of the electronic transmission or, if given by mail, is effective upon postmark, properly addressed to the contractor and postage prepaid. If you

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cancel, any payments made by you under the contract will be returned within three (3) business days following receipt by the contractor of your cancellation notice.

I HEREBY CANCEL THIS TRANSACTION.

.....
(date)

.....
(Consumer's signature)"

(d) Within three (3) days after a contract referred to in subsection (a) of this section has been cancelled, the contractor shall tender to the consumer any payments made by the consumer and any note or other evidence of indebtedness. If the contractor has performed any emergency repair, the contractor is entitled to separately bill the consumer for such services if the consumer has received a detailed description and itemization of charges for those services.

40-12-706. Private remedies.

Any person who violates this article shall be subject to the remedy provisions relating to unlawful trade practices provided in W.S. 40-12-108 and 40-12-109.

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Section 2. This act is effective July 1, 2017.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk