**South Carolina General Assembly**

120th Session, 2013-2014

**A77, R96, H3409**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sandifer and Bales

Document Path: l:\council\bills\agm\19846ab13.docx

Introduced in the House on January 23, 2013

Introduced in the Senate on March 7, 2013

Last Amended on May 23, 2013

Passed by the General Assembly on June 4, 2013

Governor's Action: June 14, 2013, Signed

Summary: Residential builders or contractors

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/23/2013 House Introduced and read first time ([House Journal‑page 41](file:///h%3A%5CHJ%20Archive%5C2013%5C01-23-13.docx))

 1/23/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 41](file:///h%3A%5CHJ%20Archive%5C2013%5C01-23-13.docx))

 2/28/2013 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 3](file:///h%3A%5CHJ%20Archive%5C2013%5C02-28-13.docx))

 3/1/2013 Scrivener's error corrected

 3/6/2013 House Amended ([House Journal‑page 59](file:///h%3A%5CHJ%20Archive%5C2013%5C03-06-13.docx))

 3/6/2013 House Read second time ([House Journal‑page 59](file:///h%3A%5CHJ%20Archive%5C2013%5C03-06-13.docx))

 3/6/2013 House Roll call Yeas‑109 Nays‑1 ([House Journal‑page 60](file:///h%3A%5CHJ%20Archive%5C2013%5C03-06-13.docx))

 3/7/2013 House Read third time and sent to Senate ([House Journal‑page 22](file:///h%3A%5CHJ%20Archive%5C2013%5C03-07-13.docx))

 3/7/2013 Senate Introduced and read first time ([Senate Journal‑page 11](file:///h%3A%5CSJ%20Archive%5C2013%5C03-07-13.docx))

 3/7/2013 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 11](file:///h%3A%5CSJ%20Archive%5C2013%5C03-07-13.docx))

 5/9/2013 Senate Committee report: Favorable **Labor, Commerce and Industry** ([Senate Journal‑page 4](file:///h%3A%5CSJ%20Archive%5C2013%5C05-09-13.docx))

 5/23/2013 Senate Amended ([Senate Journal‑page 37](file:///h%3A%5CSJ%20Archive%5C2013%5C05-23-13.docx))

 5/28/2013 Senate Read second time ([Senate Journal‑page 17](file:///h%3A%5CSJ%20Archive%5C2013%5C05-28-13.docx))

 5/28/2013 Senate Roll call Ayes‑32 Nays‑0 ([Senate Journal‑page 17](file:///h%3A%5CSJ%20Archive%5C2013%5C05-28-13.docx))

 5/29/2013 Senate Read third time and returned to House with amendments ([Senate Journal‑page 38](file:///h%3A%5CSJ%20Archive%5C2013%5C05-29-13.docx))

 6/4/2013 House Concurred in Senate amendment and enrolled ([House Journal‑page 28](file:///h%3A%5CHJ%20Archive%5C2013%5C06-04-13.docx))

 6/4/2013 House Roll call Yeas‑98 Nays‑1 ([House Journal‑page 229](file:///h%3A%5CHJ%20Archive%5C2013%5C06-04-13.docx))

 6/11/2013 Ratified R 96

 6/14/2013 Signed By Governor

 6/20/2013 Effective date 07/01/13

 6/24/2013 Act No. 77

**VERSIONS OF THIS BILL**

[1/23/2013](file:///p%3A%5Cpprever%5C2013-14%5C3409_20130123.docx)

[2/28/2013](file:///p%3A%5Cpprever%5C2013-14%5C3409_20130228.docx)

[3/1/2013](file:///p%3A%5Cpprever%5C2013-14%5C3409_20130301.docx)

[3/6/2013](file:///p%3A%5Cpprever%5C2013-14%5C3409_20130306.docx)

[5/9/2013](file:///p%3A%5Cpprever%5C2013-14%5C3409_20130509.docx)

[5/23/2013](file:///p%3A%5Cpprever%5C2013-14%5C3409_20130523.docx)

(A77, R96, H3409)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑59‑25 SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A PERSON MAY CANCEL A WRITTEN CONTRACT FOR ROOFING SYSTEMS GOODS AND SERVICES TO BE PAID FOR BY PROPERTY AND CASUALTY INSURANCE PROCEEDS IF COVERAGE IS SUBSEQUENTLY DENIED, TO SPECIFY APPLICABILITY OF THIS PROVISION TO CERTAIN PROVIDERS OF ROOFING SYSTEMS GOODS AND SERVICES, TO PROVIDE THE MANNER OF CANCELLATION, AND TO PROVIDE NECESSARY DEFINITIONS; AND TO AMEND SECTION 40‑59‑110, RELATING TO BASES FOR REVOCATION, SUSPENSION, OR RESTRICTION OF CERTAIN LICENSEES OR REGISTRANTS BY THE RESIDENTIAL HOME BUILDERS COMMISSION, SO AS TO MAKE A RELATED CHANGE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Roofing contract cancellations for insurance coverage denial**

SECTION 1. Article 1, Chapter 59, Title 40 of the 1976 Code is amended by adding:

 “Section 40‑59‑25. (A)(1) A person who enters into a written contract for goods or services related to a roofing system with a party who will be paid from proceeds of a property and casualty insurance policy and who subsequently receives written notice from the insurer that all or part of the claim or contract is not a covered loss under the policy may cancel the contract prior to midnight on the fifth business day after the insured has received the written notice of the denial of coverage.

 (2) This section applies to the following persons performing goods or services related to a roofing system:

 (a) a licensed residential builder;

 (b) a registered residential specialty contractor; and

 (c) a person or firm who engages or offers to engage in the business of residential building or residential specialty contracting without first having registered with the commission or procured a license from the commission.

 (3) Cancellation must be evidenced by the insured giving written notice of cancellation to the builder or contractor at the address provided in the contract. Notice of cancellation, if given by mail, must be effective upon deposit into the United States mail, postage prepaid and properly addressed to the builder or contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract.

 (4) For purposes of this subsection, ‘roof system’ means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, or insulation.

 (B) Before entering a contract as provided in subsection (A), the builder or contractor shall:

 (1) provide the insured a statement in boldface type of a minimum size of ten points, in substantially the following form:

‘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 this 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 which may be found in state or federal law or regulation. See attached notice of cancellation form for an explanation of this right’; and

 (2) provide each insured a fully completed form, in duplicate, prominently captioned ‘NOTICE OF CANCELLATION’, which must be attached to the contract but easily detachable, and which must contain in boldface type of a minimum size of ten points the following statement:

‘NOTICE OF CANCELLATION

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 the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (insert name of contractor) at (insert address of contractor’s place of business) any time prior to midnight on the fifth business day after you have received such notices from your insurer.

I HEREBY CANCEL THIS TRANSACTION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SIGNATURE OF INSURED’

 (C) In circumstances in which payment may be made from the proceeds of a property and casualty insurance policy, a builder or contractor shall not require any payments from an insured until the five‑day cancellation period has expired. If, however, the builder or contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the builder or contractor must be entitled to collect the amount due for the emergency services at the time they are rendered. A provision in a contract as provided in subsection (A) that requires payment of any fee for anything except emergency services must not be enforceable against an insured who has canceled a contract under this section.

 (D)(1) A builder or contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems.

 (2) Notwithstanding item (1), or any other provision of state law, an owner is not prevented from consulting with a builder, contractor, or other person of his choice to provide an evaluation of the condition of his roof system and using the evaluation he receives in the negotiation for the repair or replacement of his roof system.

 (E)(1) A builder or contractor shall not advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of goods or services.

 (2) A person who violates a provision of this subsection is guilty of a misdemeanor. The violation is grounds for suspension or revocation of licenses issued pursuant to this chapter.

 (3) As used in this subsection, the term ‘promise to pay or rebate’ means:

 (a) granting any allowance or offering any discount against the fees to be charged, including, but not limited to, an allowance or discount in return for displaying a sign or other advertisement at the insured’s premises; or

 (b) paying the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason.”

**Residential Home Builders Commission powers, misconduct**

SECTION 2. Section 40‑59‑110 of the 1976 Code is amended to read:

 “Section 40‑59‑110. In addition to the grounds provided for in Section 40‑1‑110, the commission, upon a majority vote, may revoke, suspend, or restrict the license or registration of a licensee or registrant who the commission finds has committed fraud or deceit in obtaining a license or registration under this chapter or has engaged in misconduct in the practice of residential building or residential specialty contracting. For purposes of this section, misconduct includes a violation of Section 40‑59‑25, or a pattern of repeated failure by a residential builder or residential specialty contractor to pay labor or material bills. For purposes of disciplinary matters, or otherwise, compliance with the construction standards adopted by the commission is prima facie evidence of compliance with applicable professional standards.”

**Time effective**

SECTION 3. This act takes effect on July 1, 2013.

Ratified the 11th day of June, 2013.

Approved the 14th day of June, 2013.

\_\_\_\_\_\_\_\_\_\_