

State of Wisconsin



2013 Assembly Bill 81

Date of enactment: **July 5, 2013**
Date of publication*: **July 6, 2013**

2013 WISCONSIN ACT 24

AN ACT to create 100.65 of the statutes; relating to: contracting with residential contractors and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.65 of the statutes is created to read:

100.65 Residential contractors. (1) In this section:

(a) "Consumer" means an owner or possessor of residential real estate.

(b) "Dwelling unit" means a structure or that part of a structure that is used or intended to be used for human habitation.

(c) "Promise to pay or rebate" includes granting any allowance or offering any discount against fees to be charged or paying a consumer any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or any other item of monetary value.

(d) "Residential contractor" means a person who enters into a written or oral contract with a consumer to repair or replace a roof system or to perform any other exterior repair, replacement, construction, or reconstruction of residential real estate.

(e) "Residential real estate" means residential property containing a one-family or 2-family dwelling.

(f) "Roof system" includes roof coverings, roof sheathing, roof weatherproofing, and insulation.

(2) No residential contractor may, including in any advertisement, promise to pay or rebate all or any portion of a property insurance deductible as an incentive to a consumer entering into a written or oral contract with the

residential contractor to repair or replace a roof system or to perform any other exterior repair, replacement, construction, or reconstruction of residential real estate.

(3) Before entering into a written contract with a consumer to repair or replace a roof system or to perform any other exterior repair, replacement, construction, or reconstruction of residential real estate, a residential contractor shall do all of the following:

(a) Furnish the consumer with a statement in bold-face type of a minimum size of 10 point in substantially the following form:

Please indicate whether, to the best of your knowledge, the work contemplated by this contract is related to a claim under a property insurance policy:

.... YES, to the best of my knowledge, the work contemplated by this contract is related to a claim under a property insurance policy.

.... NO, to the best of my knowledge, the work contemplated by this contract is not related to a claim under a property insurance policy.

Date

Customer's signature

Residential contractor's signature

You may cancel this contract at any time before midnight on the third business day after you have received written notice from your insurer that the claim has been denied in whole or in part under the property insurance policy. See the attached notice of cancellation form for an explanation of this right.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(b) Furnish the consumer a completed form in duplicate that is attached to the contract, is easily detachable, and contains, in boldface type of a minimum size of 10 point, the following statement:

NOTICE OF CANCELLATION

If you are notified by your insurer that the claim under the property insurance policy has been denied in whole or in part, you may cancel the contract by personal delivery or by mailing by 1st class mail a signed and dated copy of this cancellation notice or other written notice to (name of contractor) at (contractor's business address) at any time before midnight on the third business day after you have received the notice from your insurer. If you cancel the contract, any payments made by you under the contract, except for certain emergency work already performed by the contractor, will be returned to you within 10 business days following receipt by the contractor of your cancellation notice.

I CANCEL THIS CONTRACT

Date

Customer's signature

(4) Before a consumer enters into a written contract with a residential contractor to repair or replace a roof system or to perform any other exterior repair, replacement, construction, or reconstruction of residential real estate, the consumer shall indicate to the residential contractor whether, to the best of the consumer's knowledge, the work contemplated by the contract is related to a claim under a property insurance policy. If the consumer makes the indication on the statement provided by the residential contractor under sub. (3) (a), the residential contractor shall retain the statement and provide the consumer with a copy of the statement.

(5) A consumer who enters into a written contract with a residential contractor to repair or replace a roof system or to perform any other exterior repair, replacement, construction, or reconstruction of residential real estate all or part of which is to be paid under a property insurance policy may cancel that contract prior to the end of the 3rd business day after the insured receives written notice from the insurer that the claim under the property insurance policy is denied in whole or in part. The consumer shall give the residential contractor written notice of cancellation by personal delivery of the notice or by 1st class mail to the residential contractor's address stated in the contract. If the notice is given by mail, the notice shall be postmarked before midnight of the 3rd business day after the insured receives written notice from the insurer of the denial of the claim. The notice shall be sufficient

if the consumer uses the notice of cancellation form in sub. (3) (b) or provides other written notice that indicates the consumer's intent not to be bound by the contract.

(6) Within 10 days after a residential contractor receives a cancellation notice under sub. (5), the residential contractor shall return to the consumer any payments made, any deposits made, and any note or other evidence of indebtedness related to the contract. However, if the residential contractor has performed any emergency services, acknowledged by the consumer in writing to be necessary to prevent damage to the residential real estate, the residential contractor shall be entitled to the reasonable value of those services.

(7) Any provision in a written contract with a residential contractor to repair or replace a roof system or to perform any other exterior repair, replacement, construction, or reconstruction of residential real estate that requires the payment of any fee for anything except emergency services under sub. (6) is not enforceable against the consumer who has cancelled the contract under sub. (5).

(8) No residential contractor may represent or offer or advertise to represent a consumer or negotiate or offer or advertise to negotiate on behalf of a consumer with respect to any insurance claim related to the repair or replacement of a roof system or to the exterior repair, replacement, construction, or reconstruction of residential real estate. This subsection does not prohibit a residential contractor, with the express consent of an insured, from doing any of the following:

(a) Discussing damage to the insured's property with the insured or an insurance company's representative.

(b) Providing the insured an estimate for repair, replacement, construction, or reconstruction of the insured's property, submitting the estimate to the insured's insurance company, and discussing options for the repair, replacement, construction, or reconstruction with the insured or an insurance company's representative.

(9) Any person who violates this section shall forfeit not less than \$500 nor more than \$1,000 for each violation.

SECTION 2. Initial applicability.

(1) This act first applies to contracts that are entered into on the effective date of this subsection.

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.