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# A BILL FOR AN ACT

RELATING TO ROOFING CONTRACTORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that there are  
2 individuals referred to as "storm chasers" in the roofing  
3 industry who make unsolicited offers to homeowners to repair  
4 their houses or roofs after significant weather events,  
5 predicated on the homeowners receiving insurance proceeds for  
6 the repairs. Many of these offers promise homeowners new roofs  
7 or roof systems at no cost to the homeowner, convincing  
8 homeowners to sign binding contracts to replace the entire roof.  
9 In cases where there has been substantial damage that would  
10 require a new roof, there is not usually a problem with these  
11 types of contracts. However, often a subsequent inspection is  
12 performed by a qualified insurance adjuster, who may determine  
13 that the roof sustained only minimal or no damage and therefore  
14 limits the claim to the cost to repair the damage, rather than  
15 the cost to replace the entire roof. In these situations,  
16 homeowners find themselves responsible for the cost of an entire  
17 roof replacement with minimal or no insurance coverage.



- 1 Accordingly, the purpose of this Act is to:
- 2 (1) Prohibit roofing contractors from advertising or  
3 promising to pay or rebate a property or casualty  
4 insurance deductible, or any portion thereof, to  
5 induce an insured homeowner to purchase goods or  
6 services;
- 7 (2) Allow an insured homeowner to rescind a contract with  
8 a roofing contractor within an unspecified number of  
9 business days of receiving notice from their insurer  
10 that all or any part of the claim or contract is not a  
11 covered loss under the insured's property or casualty  
12 insurance policy;
- 13 (3) Require roofing contractors to deliver certain forms  
14 to insured homeowners advising them of their legal  
15 right to rescind the contract;
- 16 (4) Require roofing contractors to return funds to an  
17 insured in certain circumstances; and
- 18 (5) Prohibit roofing contractors from representing or  
19 negotiating, or offering or advertising to represent  
20 or negotiate, on behalf of an insured any insurance  
21 claim in connection with the repair or replacement of



1 roof systems, or the performance of any other exterior  
2 repair, replacement, construction, or reconstruction  
3 work.

4 SECTION 2. Chapter 444, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§444- Roofing contractors; promises to pay or rebate  
8 insurance deductible; inducement of sale of goods or services;  
9 right to rescind. (a) A roofing contractor shall not advertise  
10 or promise to pay or rebate a property or casualty insurance  
11 deductible, or any portion thereof, to induce an insured to  
12 purchase goods or services.

13 (b) An insured who has entered into a written contract  
14 with a roofing contractor to provide goods and services to be  
15 paid from the proceeds of a property or casualty insurance  
16 policy claim may rescind the contract at any time prior to  
17 midnight on the business day after the insured has  
18 been notified by the insurer that all or any part of the claim  
19 or contract is not a covered loss under the insured's property  
20 or casualty insurance policy. Rescission shall be evidenced by  
21 the insured providing written notice of rescission and evidence



1 of any denial or partial denial of the claim by the insurer to  
2 the roofing contractor at the address stated in the contract.  
3 Notice of rescission, if provided by mail, shall be effective  
4 upon dispatch when mailed by registered or certified mail.  
5 Notice of rescission shall not take a particular form and is  
6 sufficient so long as it indicates, by any form of written  
7 expression, the intention of the insured not to be bound by the  
8 contract.

9 (c) Prior to entering into a contract with an insured for  
10 goods and services to be paid from the proceeds of a property or  
11 casualty insurance policy claim, the roofing contractor shall:

12 (1) Furnish the insured, in bold-face type of a minimum  
13 size of ten-point font, a statement in substantially  
14 the following form:

15 "You may rescind this contract at any time before  
16 midnight on the \_\_\_\_\_ business day after you have  
17 been notified by your insurer that all or any part of  
18 the claim or contract is not a covered loss under your  
19 insurance policy. See attached notice of rescission  
20 form for an explanation of this right."; and



1        (2) Furnish each insured a fully completed form in  
2        duplicate, captioned "NOTICE OF RESCISSION", which  
3        shall be attached to the contract but easily  
4        detachable, that shall contain the following statement  
5        in boldface type of a minimum size of ten points:

6                                    "NOTICE OF RESCISSION

7        If you are notified by your insurer that all or any  
8        part of the claim or contract is not a covered loss  
9        under your insurance policy, you may rescind the  
10       contract by mailing or delivering a signed and dated  
11       copy of this rescission notice or any other written  
12       notice to (name of contractor) at (address of  
13       contractor's place of business) at any time prior to  
14       midnight on the \_\_\_\_\_ business day after you  
15       received such notice from your insurer. If you  
16       rescind, any payments made by you under the contract,  
17       except for certain emergency work already performed by  
18       the contractor, will be returned to you within ten  
19       business days following receipt by the contractor of  
20       your rescission notice.



1           I HEREBY RESCIND THIS CONTRACT.

2           \_\_\_\_\_ (date)

3           \_\_\_\_\_

4           (insured's signature)"

5           (d) No later than ten days after an insured has rescinded  
6 a contract pursuant to this section, the roofing contractor  
7 shall tender to the insured any payments, partial payments, or  
8 deposits made and any note or other evidences of indebtedness;  
9 provided that if the roofing contractor has performed any  
10 emergency services, acknowledged by the insured in writing to be  
11 necessary to prevent damage to the residential property, the  
12 roofing contractor shall be entitled to the reasonable value of  
13 the emergency services. Any provision in a contract for goods  
14 and services to be paid from the proceeds of an insurance claim  
15 for anything except emergency services shall not be enforceable  
16 against an insured who has rescinded a contract pursuant to this  
17 section.

18           (e) A roofing contractor shall not represent or negotiate,  
19 or offer or advertise to represent or negotiate, on behalf of an  
20 insured any insurance claim in connection with the repair or  
21 replacement of roof systems, or the performance of any other



1 exterior repair, replacement, construction, or reconstruction  
2 work.

3 (f) Any violation of this section by a roofing contractor  
4 shall be deemed an unfair method of competition and an unfair or  
5 deceptive act or practice and shall be subject to the provisions  
6 of chapters 480 and 481B, as well as the provisions of this  
7 chapter.

8 (g) For purposes of this section:

9 "Insured" means any named insured, any additional insured,  
10 any vendor, any lessor, or any other party identified as an  
11 insured under a property or casualty insurance policy.

12 "Promise to pay or rebate" means granting any allowance  
13 against the fees to be charged or paying to the insured any form  
14 of compensation, gift, prize, bonus, coupon, credit, referral  
15 fee, or other item of monetary value for any reason, including  
16 but not limited to permitting the roofing contractor to display  
17 a sign or any other type of advertisement at the insured's  
18 residential property.

19 "Roofing contractor" means a person, including but not  
20 limited to a person that is a nonresident roofing contractor,  
21 independent contractor, or subcontractor, whose scope of



1 practice is within the C-42 specialty contractor classification  
2 specified under this chapter, for a fee or who offers to engage  
3 in or solicits roofing-related services, including construction,  
4 installation, renovation, repair, maintenance, alteration, or  
5 waterproofing. "Roofing contractor" does not include:

6       (1) A person engaged in the demolition of a structure or  
7             the cleanup of construction waste and debris that  
8             contains roofing material;

9       (2) A person providing roofing services to a residential  
10            building for more than four units; or

11       (3) A person engaged in building a new home or housing  
12            development."

13       SECTION 3. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16       SECTION 4. New statutory material is underscored.

17       SECTION 5. This Act shall take effect on January 1, 2050.





**Report Title:**

Roofing Contractors; Property or Casualty Insurance; Right to Rescind; Unfair Methods of Competition; Unfair or Deceptive Acts or Practices

**Description:**

Prohibits roofing contractors from offering to pay, in any monetary form, an insured's property or casualty insurance deductible as an incentive to induce the insured to hire the contractor. Allows an insured to rescind a contract with the roofing contractor if an insurer notifies the insured that all or any part of a claim or contract is not a covered loss under the insured's insurance policy and requires the roofing contractor to return funds after the rescission, in certain circumstances. Requires roofing contractors to provide certain forms to an insured, prior to entering into a contract. Prohibits roofing contractors from representing or negotiating, or offering or advertising to do so, on behalf of an insured in an insurance claim. Specifies violations are unfair methods of competition and unfair or deceptive acts or practices. Effective 1/1/2050. (HD1)

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