
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The legislature finds that consumer protection
2 is extremely important to the State, and there are individuals
3 known as "hail chasers" or "storm chasers" in the roofing
4 industry who pose as insurance adjuster experts to take
5 advantage of individuals pursuing insurance claims to repair
6 their roofs. These purported insurance adjusters engage in
7 unscrupulous practices when hiring contractors to repair the
8 damaged roofs of unsuspecting consumers. The purpose of this
9 Act is to protect Hawaii consumers from the unscrupulous
10 practices of unlicensed insurance adjusters by regulating
11 roofing contractors.

12 SECTION 2. Chapter 444, Hawaii Revised Statutes, is
13 amended by adding eight new sections to be appropriately
14 designated and to read as follows:

15 "§444-A Roofing contractor; written contract required.

16 (a) Any agreement with a roofing contractor in an amount



1 in excess of \$1,000 shall be in writing and shall include
2 the following documentation and information:

3 (1) The complete agreement between the consumer and
4 the roofing contractor, with a clear description
5 of any other documents that are or shall be
6 incorporated into the agreement;

7 (2) The roofing contractor's full legal name, business
8 names, principal address, phone number, email, and
9 license number;

10 (3) The name of the roofing contractor's insurer,
11 the type of insurance coverage, and the
12 insurance policy limits obtained by the
13 roofing contractor;

14 (4) An itemized description of the work to be done,
15 any emergency services to be completed, and the
16 materials to be used in the performance of the
17 contract;

18 (5) The total itemized amount agreed to be paid for
19 the work to be performed under the contract,
20 including all change orders and work orders;



1 (6) A description of any person performing the work,
2 including subcontractors;

3 (7) The approximate cost to be borne by the
4 consumer;

5 (8) A provision allowing payment to be made by cash,
6 check, or credit card, at the consumer's
7 discretion; and

8 (9) The signatures of all persons who are party to
9 the contract.

10 (b) Every written contract shall, in immediate proximity
11 to the space reserved for the signature of the consumer in
12 bold-face type of a minimum size of ten point font, contain a
13 statement in substantially the following form:

14 "You may cancel this contract at any time
15 within three business days of entering into this
16 contract with your contractor. You may also cancel
17 the contract with your contractor within three
18 business days of being notified that your insurer
19 has denied all or any part of your claim or loss
20 under the insurance policy. See attached notice of
21 cancellation form for an explanation of this right."



1 (c) Every written contract shall contain a fully
2 completed form in duplicate, captioned "NOTICE OF
3 CANCELLATION," which shall be attached to the contract but
4 easily detachable, and that shall contain, in boldface type
5 of a minimum size of ten point font, the following
6 statement:

7 "NOTICE OF CANCELLATION"

8 You may cancel this contract at any time within three
9 business days of entering into the contract with your
10 contractor. You may also cancel the contract with your
11 contractor within three business days of being notified that
12 your insurer has denied all or any part of your claim or loss
13 under the insurance policy. You may cancel the contract by
14 mailing or delivering a signed and dated copy of this
15 cancellation notice or any other written notice to (name of
16 contractor) at (address of contractor's place of business) at
17 any time within three business days of receiving such notice
18 from your insurer. You may also send a cancellation notice
19 through email. If you cancel, any payments made by you under
20 the contract will be returned to you within ten business days
21 following receipt by the contractor of your cancellation



1 notice, and any security interest arising out of the
2 transaction will be canceled. You shall retain a copy of the
3 notice of cancellation that is transmitted to the contractor.

4 I HEREBY CANCEL THIS TRANSACTION

5 _____

6 (Date)

7 _____

8 (Consumer's Signature)

9 (d) At the time of signing the contract, the consumer
10 shall be furnished with a copy of the contract signed by both
11 the roofing contractor and the consumer.

12 (e) No work shall be initiated or performed by a roofing
13 contractor prior to the signing of the contract and the
14 furnishing of the contract to the consumer.

15 **§444-B Roofing contractor; consumer right to cancel. (a)**

16 A consumer shall have the right to cancel a roofing contract
17 within three business days after the consumer signs the
18 contract.

19 (b) A consumer who has entered into a written contract
20 with a roofing contractor to provide goods or services to be
21 paid from the proceeds of a property or casualty insurance



1 policy may also cancel the contract at any time prior to
2 midnight of the third business day after the consumer has
3 received written notification from the insurer, including
4 electronic notification, that all or any part of the claim
5 is not covered under the insurance policy.

6 (c) Cancellation of a roofing contract shall be
7 evidenced by the consumer giving written notice of
8 cancellation to the roofing contractor at the physical
9 address or email stated in the contract.

10 (d) Notice of cancellation, if given by mail, shall be
11 effective upon deposit into the United States mail, postage
12 prepaid, and properly addressed to the roofing contractor.

13 (e) Notice of cancellation need not take a particular
14 form and shall be sufficient if the notice indicates, by any
15 form of written expression, the intention of the consumer
16 not to be bound by the contract. The consumer shall retain
17 a copy of the cancellation notice.

18 §444-C Right to return of deposit after cancellation. (a)
19 Within ten days after a roofing contract has been cancelled,
20 the roofing contractor shall tender to the consumer or
21 possessor of the residential real estate any payments,



1 partial payments, or deposits made by the consumer and any
2 note or other evidence of indebtedness.

3 (b) If the roofing contractor has performed any services
4 that were both acknowledged by the consumer in writing and
5 reflected in the original itemized estimate, the roofing
6 contractor shall be entitled to the reasonable value of those
7 services.

8 §444-D Roofing contractor; license required. (a) No
9 person shall undertake, offer to undertake, or agree to
10 perform roofing contractor services unless the person has
11 a license in good standing with the board.

12 (b) Any roofing contractor who does not possess a
13 license in good standing from the board as of July 1,
14 2099, shall be entitled to complete any preexisting
15 contracts the roofing contractor has entered. However, a
16 roofing contractor shall be licensed prior to bidding or
17 entering into any contracts within thirty days following
18 July 1, 2099.



- 1 (c) In addition to any other information required by
2 the board, a roofing contractor shall submit the following
3 information to the board for the purposes of licensing:
- 4 (1) The roofing contractor's name, home address,
5 business address, phone number, email address, and
6 website address;
- 7 (2) The names and addresses of all affiliates,
8 subsidiaries, partners, or trustees of the roofing
9 contractor including, in the case of corporate
10 entities, the names and addresses of all officers,
11 directors, and principal shareholders;
- 12 (3) A statement as to whether the roofing contractor
13 has ever been previously licensed in the State as
14 a contractor, names under which they were
15 previously licensed, whether there have been
16 previous judgments or arbitration awards against
17 the contractor, and whether licensure has ever
18 been suspended or revoked; and
- 19 (4) Proof of insurance.



- 1 (d) The board may deny, restrict, suspend, or revoke
2 the licensing of a roofing contractor, or refuse to license
3 a roofing contractor if the roofing contractor:
- 4 (1) Employs the use of fraud, deceit, or
5 misrepresentation in obtaining or attempting
6 to obtain a license or the renewal of a
7 license;
- 8 (2) Practices or attempts to practice roofing
9 services by fraudulent misrepresentation;
- 10 (3) Commits an act of gross malpractice or incompetence,
11 as determined by the board;
- 12 (4) Has been convicted of or pled guilty or no contest
13 to a crime that indicates that the person is unfit
14 or incompetent to practice as a roofing contractor,
15 or that indicates that the person has deceived or
16 defrauded the public;
- 17 (5) Has been declared incompetent by a court of
18 competent jurisdiction; or
- 19 (6) Has wilfully violated any provision of this chapter
20 or any rules adopted by the board.



1 (e) The board may accelerate the license of any roofing
2 contractor that is registered or licensed and in good
3 standing in another state with similar licensing standards.

4 (f) The board may establish fees necessary to cover
5 administrative costs for the licensing of a roofing
6 contractor under this section. Fees shall be established
7 through rules adopted pursuant to chapter 91.

8 **§444-E Roofing contractor; insurance required.** A roofing
9 contractor shall obtain and maintain for the duration of
10 operations as a roofing contractor the following types of
11 insurance:

12 (1) Workers' compensation insurance in the amount of
13 \$ _____ ;

14 (2) Public liability insurance in the amount of \$ _____ ;

15 (3) Bodily injury in the amount of \$ _____ ;

16 (4) Property damage in the amount of \$ _____ ; and

17 (5) A surety and performance bond in the amount of
18 \$ _____ .

19 **§444-F Roofing contractor; prohibited acts.** A roofing
20 contractor shall not:

21 (1) Operate without a license issued by the board;



- 1 (2) Advertise, promise to pay, or rebate any portion of
2 any insurance deductible as an inducement to the
3 sale of goods or services. As used in this
4 paragraph, a promise to pay or rebate includes
5 granting any allowance or offering any discount
6 against the fees to be charged or paying the
7 consumer any form of compensation;
- 8 (3) Require a deposit of more than one half of the
9 contract price;
- 10 (4) Mandate that a particular form of payment be made
11 to start roofing services;
- 12 (5) Induce the sale of any goods or services by:
- 13 (A) Offering or providing any upgraded work,
14 material, or product;
- 15 (B) Granting any allowance or offering any discount
16 against the fees to be charged; or
- 17 (C) Paying the consumer associated with the
18 property, any form of compensation, gift,
19 prize, bonus, coupon, credit, referral fee,
20 advertising, or other fee or payment;



- 1 (6) Abandon or fail to perform, without justification,
2 any ongoing contract or project, or deviate from or
3 disregard plans or specifications in any material
4 respect without the consent of the consumer;
- 5 (7) Fail to credit the consumer for any payment the
6 consumer has made to the contractor in connection
7 with the contract;
- 8 (8) Make any material misrepresentation in the
9 procurement of a contract or make any false promise
10 likely to influence, persuade, or induce the
11 procurement of a contract;
- 12 (9) Violate the state building code;
- 13 (10) Fail to notify the board within thirty business days
14 of any change of trade name or address, or
15 conducting a business in any name other than the one
16 in which the contractor is licensed;
- 17 (11) Fail to pay for materials or services rendered in
18 connection with operations as a roofing contractor
19 where sufficient funds were received as payment for
20 the particular construction work, project, or



1 operation for which the services or materials were
2 rendered or purchased;

3 (12) Perform the reporting, adjusting, or negotiating of
4 a claim on behalf of the consumer;

5 (13) Receive compensation for a referral to any entity
6 that reports, adjusts or negotiates a claim on
7 behalf of a consumer; and

8 (14) Fail to possess required insurance as set forth in
9 section 444-E.

10 **§444-G Roofing contractor requirements; exemptions.**

11 Roofing contractor license, contract, and contractor
12 requirements shall not apply to:

13 (1) Residential owners who, without the assistance of a
14 roofing contractor, physically perform roofing,
15 siding, gutter, or downspout services on a dwelling
16 located on a residential property;

17 (2) Agricultural property owners who, without the
18 assistance of a roofing contractor, physically
19 perform or have employees perform roofing, siding,
20 gutter, or downspout services on a dwelling or on



1 any other structure located on the agricultural
2 property;

3 (3) Any authorized employee or representative of the
4 federal government, state, or county, performing
5 roofing services on government property; and

6 (4) Any person who furnishes and installs onto the real
7 property any fabricated or finished product,
8 material, or other article of merchandise that is
9 not incorporated into or attached to real property.

10 §444-H Roofing contractors; penalties for violations. (a)

11 In addition to any other penalties provided for by law, any
12 roofing contractor found in violation of any requirement
13 applicable to roofing contractors may, as determined by the
14 board, be subject to:

15 (1) Revocation or suspension of the roofing contractor's
16 license for a period of time as determined by the
17 board; and

18 (2) An assessment of an administrative penalty as
19 determined by the board pursuant to rules adopted in
20 accordance with chapter 91; provided that the



1 administrative penalty shall not exceed per cent
2 of the total contract price."

3 SECTION 3. Section 444-1, Hawaii Revised Statutes, is
4 amended by adding a new definition to be appropriately inserted
5 and to read as follows:

6 "Roofing contractor" means a person, including, but not
7 limited to, a person that is a nonresident roofing
8 contractor, independent contractor, or subcontractor engaged
9 in the business of roofing, gutter, downspout, or siding
10 services for a fee or who offers to engage in or solicits
11 roofing-related services, including construction,
12 installation, renovation, repair, maintenance, alteration,
13 or waterproofing. The term "roofing contractor" does not
14 include a person engaged in the demolition of a structure or
15 the cleanup of construction waste and debris that contains
16 roofing material, nor a person providing roofing services to
17 a residential building of more than four units, nor a person
18 engaged in building a new home or housing development."

19 SECTION 4. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 5. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 6. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 7. New statutory material is underscored.

13 SECTION 8. This Act shall take effect on July 1, 2099.



Report Title:

Insurance Code; Adjusters

Description:

Establishes a regulatory scheme for roofing contractors to protect consumers from unlicensed insurance adjusters. (HB1421 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

