
A BILL FOR AN ACT

RELATING TO CONTRACTOR PRACTICES.

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 construction
3 industry who make unsolicited offers to insured property owners
4 to repair their insured premises after significant weather
5 events, predicated on the insured receiving insurance proceeds
6 for their repairs. Many of these predator contractors offer
7 promises to property owners for covered repairs and improvements
8 at no cost to the property owner, baiting them to sign binding
9 contracts to perform extensive work. Often a subsequent
10 inspection of the property is performed by a qualified and
11 Hawaii-licensed insurance adjuster, who may determine that the
12 property sustained only minimal damage and therefore limits the
13 claim to the cost of the actual damages incurred to the
14 property. In certain cases, property owners find themselves
15 being held responsible for the cost of entire rebuilding
16 projects, with little to no actual insurance proceeds.

17 Accordingly, the purpose of this Act is to:



- 1 (1) Prohibit a contractor from paying or rebating, or
2 promising to pay or rebate, a policyholder's property
3 or casualty insurance deductible, or any portion
4 thereof;
- 5 (2) Prohibit a contractor from representing or
6 negotiating, or offering or advertising to represent
7 or negotiate, on behalf of an insured or claimant in
8 connection with the repair or reconstruction work
9 associated with any insurance claim;
- 10 (3) Allow an insured to rescind a contract with a
11 contractor within five business days after the date
12 the contract is executed;
- 13 (4) Require a contractor to furnish a property owner with
14 a written five-business-day right of rescission form
15 advising the property owner of the legal right to
16 rescind the contract within the allotted time; and
- 17 (5) Require a contractor to return funds to an insured
18 homeowner within five business days of receipt of an
19 executed right of rescission notice.



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

"§444- Payment or rebate of insurance deductible; negotiation of insurance claim; prohibition. (a) A contractor shall not pay or rebate, or promise to pay or rebate, a policyholder's insurance deductible, or any portion thereof.

(b) A contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an insured or a claimant any insurance claim in connection with the repair or reconstruction work associated with the insurance claim.

(c) A contractor shall not advertise, solicit, offer to handle, handle, or perform public adjusting services unless licensed under and in compliance with chapter 431. The contractor shall only discuss or explain a written estimate for repair or reconstruction to a property with the insured who has suffered a loss or damages covered by a property or casualty insurance policy. A contractor shall not act as an intermediary or as a third-party consultant in any manner between the insured and the insurer.



1 (d) Any violation of this section by a contractor shall be
2 deemed an unfair method of competition and an unfair or
3 deceptive act or practice pursuant to chapters 480 and 481B and
4 shall be subject to the penalties under this chapter and
5 chapters 480 and 481B.

6 (e) For purposes of this section:

7 "Advertise" includes but is not limited to any printed
8 advertisement in newspapers, magazines, flyers, bulk mailers,
9 websites, electronic mail, or internet domains; signage of any
10 type; television, radio, or oral discussions; or broadcasting by
11 any other means.

12 "Insured" means any named insured, any additional insured,
13 any vendor, any lessor, any claimant, or any other party
14 identified as an insured under a property or casualty insurance
15 policy.

16 "Pay or rebate" means to grant any allowance against the
17 fees to be charged or pay to the insured any form of
18 compensation, gift, prize, bonus, coupon, credit, referral fee,
19 or other item of monetary value for any reason, including but
20 not limited to permitting the contractor to display a sign or



1 any other type of advertisement at the insured's residential
2 property.

3 "Promise to pay or rebate" means pledging to grant any
4 allowance against the fees to be charged or pledging to pay to
5 the insured any form of compensation, gift, prize, bonus,
6 coupon, credit, referral fee, or other item of monetary value
7 for any reason, including but not limited to permitting the
8 contractor to display a sign or any other type of advertisement
9 at the insured's residential property.

10 §444- Right to rescind. (a) An insured who has entered
11 into a written contract with a contractor to provide goods and
12 services to be paid from the proceeds of a property or casualty
13 insurance policy claim may rescind the contract at any time
14 prior to midnight on the fifth business day after the date the
15 contract is executed. Rescission shall be evidenced by the
16 insured providing written notice of rescission to the contractor
17 at the address stated in the contract. Notice of rescission
18 shall be made by means of certified mail, return receipt
19 requested. Notice of rescission shall not take a particular
20 form and is sufficient so long as it indicates, by any form of



1 written expression, the intention of the insured not to be bound
2 by the contract.

3 (b) Before entering into a contract with an insured for
4 goods and services to be paid from the proceeds of a property or
5 casualty insurance policy claim, the contractor shall:

6 (1) Furnish the insured, in not less than ten-point
7 boldface type, a statement in substantially the
8 following form:

9 "You may rescind this contract at any time before
10 midnight on the fifth business day after the date the
11 contract is executed. See attached notice of
12 rescission form for an explanation of this right.";
13 and

14 (2) Furnish each insured a fully completed form in
15 duplicate, captioned "NOTICE OF RESCISSION", which
16 shall be attached to the contract but easily
17 detachable, that shall contain, in not less than ten-
18 point boldface type, the following statement:

19 "NOTICE OF RESCISSION

20 You may rescind this contract by mailing or delivering
21 a signed and dated copy of this rescission notice or



1 any other written notice to (name of contractor) at
2 (address of contractor's place of business) at any
3 time prior to midnight on the fifth business day after
4 the date the contract is executed. If you rescind,
5 any payments made by you under the contract, except
6 for bona fide emergency mitigation work already
7 performed by the contractor, will be returned to you
8 within five business days following receipt by the
9 contractor of your rescission notice.

10 I HEREBY RESCIND THIS CONTRACT.

11 _____ (date)

12 _____
13 (insured's signature)"

14 (c) Within five business days after an insured has
15 rescinded a contract pursuant to this section, the contractor
16 shall tender to the insured any payments, partial payments, or
17 deposits made and any note or other evidences of indebtedness.
18 If the contractor has performed any bona fide emergency
19 mitigation work, acknowledged by the insured in writing to be
20 necessary to mitigate any further damages to the property, the
21 contractor shall be entitled to the reasonable value of the bona



1 fide emergency mitigation work. Any provision in a contract for
2 goods and services to be paid from the proceeds of an insurance
3 claim for anything except bona fide emergency mitigation work
4 shall not be enforceable against an insured who has rescinded a
5 contract pursuant to this section."

6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2022.



Report Title:

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

Description:

Prohibits contractors from offering to pay or rebate, or promising to pay or rebate, an insured's property or casualty insurance deductible. Prohibits 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. Allows insureds to rescind contracts with the contractors within five business days after the date the contract is executed. Requires contractors to provide certain forms to an insured, prior to entering into a contract. (SD1)

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

