

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 223**

Introduced by Harr, 8.

Read first time January 13, 2015

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Insured Homeowners Protection Act; to  
2 amend sections 44-8601, 44-8602, 44-8603, and 44-8604, Revised  
3 Statutes Cumulative Supplement, 2014; to define a term; to change  
4 provisions relating to contractor duties and prohibited acts; to  
5 provide for notice of contract obligations and rights as prescribed;  
6 to provide an operative date; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-8601, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 44-8601 Sections 44-8601 to 44-8604 and sections 5 and 6 of this act  
4 shall be known and may be cited as the Insured Homeowners Protection Act.

5 Sec. 2. Section 44-8602, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7 44-8602 For purposes of the Insured Homeowners Protection Act:

8 (1) Catastrophe means a natural occurrence, including fire,  
9 earthquake, tornado, windstorm, flood, or hailstorm, which damages or  
10 destroys real estate;

11 ~~(1 2)~~ Residential contractor means a person in the business of  
12 contracting or offering to contract with an owner or possessor of  
13 residential real estate to (a) repair or replace a roof system or perform  
14 any other exterior repair, replacement, construction, or reconstruction  
15 work on residential real estate or (b) perform interior or exterior  
16 cleanup services on residential real estate;

17 ~~(2 3)~~ Residential real estate means a new or existing building,  
18 including a detached garage, constructed for habitation by at least one  
19 but no more than four families; and

20 ~~(3 4)~~ Roof system means and includes roof coverings, roof sheathing,  
21 roof weatherproofing, and insulation.

22 Sec. 3. Section 44-8603, Revised Statutes Cumulative Supplement,  
23 2014, is amended to read:

24 44-8603 (1) A person who has entered into a written contract with a  
25 residential contractor to provide goods or services to be paid from the  
26 proceeds of a property and casualty insurance policy may cancel the  
27 contract prior to midnight on the later of the third business day after  
28 the person has (a) entered into the written contract or (b) received  
29 written notice from the person's insurer that all or part of the claim or  
30 contract is not a covered loss under the insurance policy. Cancellation  
31 shall be evidenced by the person giving written notice of the

1 cancellation to the residential contractor at the address of the  
2 residential contractor's place of business as stated in the contract.  
3 Written notice of cancellation may be given by delivering or mailing a  
4 signed and dated copy of the written notice of cancellation to the  
5 residential contractor at the address of the residential contractor's  
6 place of business as stated in the contract. The notice of cancellation  
7 shall include a copy of the written notice from the person's insurer, if  
8 applicable, to the effect that all or part of the claim or contract is  
9 not a covered loss under the insurance policy. Notice of cancellation  
10 given by mail shall be effective upon deposit in the United States mail,  
11 postage prepaid, if properly addressed to the residential contractor.  
12 Notice of cancellation is not required to be in any particular form and  
13 is sufficient if the notice indicates, by any form of written expression,  
14 the intent of the insured not to be bound by the contract.

15 (2) Within ten days after a contract to provide goods or services to  
16 be paid from the proceeds of a property and casualty insurance policy has  
17 been canceled by notification pursuant to this section, the residential  
18 contractor shall tender to the person canceling the contract any  
19 payments, partial payments, or deposits made by the person and any note  
20 or other evidence of indebtedness, except that if the residential  
21 contractor has provided any goods or services to repair damage resulting  
22 from a catastrophe, agreed to by such person in writing to be necessary  
23 to prevent damage to the premises, the residential contractor shall be  
24 entitled to be paid the reasonable value of such goods or services. Any  
25 provision in a contract to provide goods or services to be paid from the  
26 proceeds of a property and casualty insurance policy that requires the  
27 payment of any fee which is not for ~~such~~ goods or services provided to  
28 repair damage resulting from a catastrophe, shall not be enforceable  
29 against any person who has canceled a contract pursuant to this section.

30 Sec. 4. Section 44-8604, Revised Statutes Cumulative Supplement,  
31 2014, is amended to read:

1           44-8604 A residential contractor shall not advertise or promise to  
2 rebate any portion of an insurance deductible as an inducement to the  
3 sale of goods or services. A promise to rebate any portion of an  
4 insurance deductible includes granting any allowance or offering any  
5 discount against the fees to be charged or paying an insured or a person  
6 directly or indirectly associated with the residential real estate any  
7 form of compensation, except for any item of nominal value. A residential  
8 contractor may display a sign or any other type of advertisement on a  
9 person's premises if the person consents to the display and the person  
10 receives no compensation from the residential contractor for the  
11 placement of the sign or advertising.

12           Sec. 5. (1) A residential contractor contracting to provide goods  
13 or services to repair damage resulting from a catastrophe shall provide  
14 the person with whom it is contracting a fully completed notice in at  
15 least ten-point bold type which shall contain the following statement:

16           NOTICE OF CONTRACT OBLIGATIONS AND RIGHTS

17           You may be responsible for payment to (insert name of residential  
18 contractor) for the cost of all goods and services provided whether or  
19 not you receive payment from any property and casualty insurance policy  
20 with respect to the damage. Pursuant to Nebraska law your contract with  
21 (insert name of residential contractor) to provide goods and services to  
22 repair damage resulting from a naturally occurring catastrophe including,  
23 but not limited to, fire, earthquake, tornado, windstorm, flood, or  
24 hailstorm is void and you have no responsibility for payment under the  
25 contract if (insert name of residential contractor) either advertises or  
26 promises to rebate all or any portion of your insurance deductible, or  
27 represents or negotiates, or offers to represent or negotiate, on your  
28 behalf with your property and casualty insurer on any insurance claim  
29 relating to the damage you have contracted to have repaired. Your  
30 signature below acknowledges your understanding of these legal  
31 obligations and rights.

1           .....

2           Date

3           .....

4           Signature

5           (2) The notice shall be executed by the person with whom the  
6 residential contractor is contracting prior to or contemporaneously with  
7 entering into the contract.

8           Sec. 6. A contract entered into with a residential contractor is  
9 void if the residential contractor violates section 44-8603, 44-8604, or  
10 section 5 of this act.

11           Sec. 7. This act becomes operative on January 1, 2016.

12           Sec. 8. Original sections 44-8601, 44-8602, 44-8603, and 44-8604,  
13 Revised Statutes Cumulative Supplement, 2014, are repealed.