



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Senate Bill 79

**Senate Amendment 1 to Senate
Substitute Amendment 1, and
Senate Substitute Amendment 1**

Memo published: May 29, 2013

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2013 Senate Bill 79 relates to contracting with residential contractors. Current law prohibits unfair trade practices, and specifies that a customer generally may cancel a contract within three days of entering into a contract. Under the statutes, a contractor who violates the provisions may be subject to an injunction, up to double the damages, and in some cases court costs and reasonable attorney fees.

2013 SENATE BILL 79

Senate Bill 79 creates specific trade practice requirements, for certain exterior work on residential property. First, the bill prohibits a contractor from promising to pay or rebate all, or any portion, of a property insurance deductible as an incentive to enter into a written or oral contract. This applies to a contract to repair or replace a roof system, or to perform any other exterior repair, replacement, construction, or reconstruction of single-family to four-unit residential property.

Second, the bill specifies that a customer who has entered into a written contract for exterior repair has an absolute right to cancel the contract within five days after the customer has received notice from the insurer that all, or any part, of the claim or contract is not a covered loss under the customer's property insurance policy. The bill gives certain format, language, and timing requirements for the contractor's notice to the customer of this right to cancel. Under the bill, a contractor must return any money paid within 10 days of receiving a cancellation, but is entitled to compensation for authorized emergency services. The bill prohibits a contractor from representing a customer, or negotiating on behalf of a customer, regarding an insurance claim for the work.

The bill specifies that a violation of these provisions is an unfair trade practice, and is subject to the unfair trade practice penalties under current law.

SENATE SUBSTITUTE AMENDMENT 1

The substitute amendment maintains the general provisions that prohibit a contractor from promising to pay or rebate a property insurance deductible, and that allow a customer to cancel the contract after receiving notice that a loss is not covered under the customer's property insurance policy.

The substitute amendment makes the following revisions to the bill's residential exterior repair trade practice requirements:

- Revises the types of residential property that are subject to the provisions from single- to four-unit residential property to single- to two-unit residential property.
- Revises the number of days for a customer to cancel a contract after receiving notice that the loss is not covered under the property insurance policy from five days to three days.
- Specifies that a customer must inform the contractor that the exterior repair is to be paid under a property insurance policy. The substitute amendment specifies that a failure to provide that notice does not affect the customer's right to cancel the contract.
- Specifies that a contractor is not prohibited from discussing the damage to a customer's property, or the estimate or any options for the repair work, with the customer or the insurer's representative.
- Revises the penalty for a violation of these requirements from the general unfair trade practice penalties to a forfeiture between \$500 and \$1,000, for each violation.

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1

Senate Amendment 1 makes the following revisions to the substitute amendment:

- Specifies that before entering into a contract, a customer must indicate whether, to the best of the customer's knowledge, the work is related to an insurance claim.
- Removes the provision under which a customer's failure to notify the contractor of the anticipated insurance payment does not affect the customer's right to cancel.
- Revises the references to "all or any part of the claim or contract that is not a covered loss under the property insurance policy," to instead refer to a notice from the insurer that the claim has been "denied in whole or in part."
- Specifies that a customer's express consent is required before a contractor may discuss the damage to the customer's property, or the estimate or any options for the repair work, with the insurer's representative.

BILL HISTORY

On May 29, 2013, the Senate Committee on Energy, Consumer Protection, and Government Reform recommended adoption of Senate Amendment 1 to Senate Substitute Amendment 1, and the substitute amendment, on votes of Ayes, 5; Noes, 0. The committee recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 0.

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