

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR EHB 1237**

**Citations Affected:** IC 24-5-11.

**Synopsis:** Home improvement contracts. Proposed conference committee report for EHB 1237. Amends the statute governing home improvement contracts to specify that "home improvement" includes an "exterior home improvement". Defines "insured consumer" and "exterior home improvement" for purposes of the statute. Provides that, with respect to a home improvement that is to be paid, in whole or in part, from the proceeds of certain insurance policies, a home improvement supplier must: (1) if the home improvement contract includes an exterior home improvement, furnish information to the insured consumer concerning cancellation of the contract by the insured consumer if the insured consumer receives written notification from the insured consumer's insurance company that all or part of the claim or contract is not a covered loss; and (2) have a presence in Indiana or a previous business relationship with the consumer. Prohibits certain activities by a home improvement supplier intended to induce a person to enter into a home improvement contract or otherwise purchase goods or services from the home improvement supplier. Provides for the cancellation of a home improvement contract by an insured consumer and the resolution of financial obligations of and to the home improvement supplier. Prohibits a home improvement supplier from acting as a public adjuster. **(This conference committee report amends EHB 1237 (as printed February 8, 2012) as follows: (1) Specifies that the provisions concerning insured consumers apply in the case of a home improvement contract for damage, loss, or expense that is to be paid, in whole or in part, from the proceeds of a personal line property and casualty insurance policy or a commercial line farm insurance policy that insures residential property. (2) Removes a provision that prohibits a home improvement supplier from taking certain specified actions that are ordinarily performed by a public adjuster. (3) Adds a provision that prohibits a home improvement supplier from acting as a public adjuster, as that term is defined in the Indiana Code.)**

**Effective:** July 1, 2012.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1237 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:  
2 SECTION 1. IC 24-5-11-1 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies  
4 only to residential property. ~~which means real property used in whole~~  
5 ~~or in part as a dwelling of a consumer and includes all fixtures to,~~  
6 ~~structures on, and improvements to the real property.~~  
7 SECTION 2. IC 24-5-11-2.5 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2012]: **Sec. 2.5. As used in this chapter, "exterior home**  
10 **improvement" means any alteration, repair, replacement,**  
11 **reconstruction, or other modification made to the exterior of**  
12 **residential property, including the exterior of any structure on or**  
13 **fixture or improvement to the property. The term also includes the**  
14 **alteration, repair, replacement, reconstruction, or other**  
15 **modification of a residential roof system.**  
16 SECTION 3. IC 24-5-11-3 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. **(a)** As used in this  
18 chapter, "home improvement" means any alteration, repair,  
19 **replacement, reconstruction,** or other modification of residential  
20 property.  
21 **(b) The term includes an exterior home improvement.**

1 SECTION 4. IC 24-5-11-6.2 IS ADDED TO THE INDIANA CODE  
 2 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 3 1, 2012]: **Sec. 6.2. As used in this chapter, "insured consumer"**  
 4 **refers to a person:**

5 **(1) who is a policyholder or an insured under a:**

6 **(A) personal line policy of property and casualty insurance**  
 7 **coverage; or**

8 **(B) commercial line farm insurance policy that insures**  
 9 **residential property; and**

10 **(2) who is or may become a consumer who enters into a home**  
 11 **improvement contract under this chapter.**

12 SECTION 5. IC 24-5-11-7.5 IS ADDED TO THE INDIANA CODE  
 13 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 14 1, 2012]: **Sec. 7.5. (a) As used in this chapter, "residential**  
 15 **property" means real property that:**

16 **(1) contains one (1) to four (4) units; and**

17 **(2) is used in whole or in part as a dwelling of a consumer.**

18 **(b) The term includes all fixtures to, structures on, and**  
 19 **improvements to the real property.**

20 SECTION 6. IC 24-5-11-7.7 IS ADDED TO THE INDIANA CODE  
 21 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 22 1, 2012]: **Sec. 7.7. As used in this chapter, "roof system" includes**  
 23 **roof coverings, roof sheathing, roof weatherproofing, and**  
 24 **insulation.**

25 SECTION 7. IC 24-5-11-10 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 10. (a) The home**  
 27 **improvement supplier shall provide a completed home improvement**  
 28 **contract to the consumer before it is signed by the consumer. Except as**  
 29 **provided in subsection (c), the contract must contain at a minimum the**  
 30 **following:**

31 **(1) The name of the consumer and the address of the residential**  
 32 **property that is the subject of the home improvement.**

33 **(2) The name and address of the home improvement supplier and**  
 34 **each of the telephone numbers and names of any agent to whom**  
 35 **consumer problems and inquiries can be directed.**

36 **(3) The date the home improvement contract was submitted to the**  
 37 **consumer and any time limitation on the consumer's acceptance**  
 38 **of the home improvement contract.**

39 **(4) A reasonably detailed description of the proposed home**  
 40 **improvements.**

41 **(5) If the description required by subdivision (4) does not include**  
 42 **the specifications for the home improvement, a statement that the**  
 43 **specifications will be provided to the consumer before**  
 44 **commencing any work and that the home improvement contract**  
 45 **is subject to the consumer's separate written and dated approval**  
 46 **of the specifications.**

47 **(6) The approximate starting and completion dates of the home**  
 48 **improvements.**

49 **(7) A statement of any contingencies that would materially**  
 50 **change the approximate completion date.**

51 **(8) The home improvement contract price.**

- 1 (9) Signature lines for the home improvement supplier or the  
 2 supplier's agent and for each consumer who is to be a party to the  
 3 home improvement contract with a legible printed or a typed  
 4 version of that person's name placed directly after or below the  
 5 signature.
- 6 (b) The home improvement contract must be in a form that each  
 7 consumer who is a party to it can reasonably read and understand.
- 8 (c) If a home improvement contract is entered into ~~as a result of for~~  
 9 damage, loss, or expense that is ~~covered, to be paid,~~ in whole or in  
 10 part, ~~by from~~ the proceeds of ~~an a~~ **personal line property and**  
 11 **casualty insurance policy or a commercial line farm insurance**  
 12 **policy that insures residential property,** or ~~for~~ damage, loss, or  
 13 expense for which a third party is liable, the following conditions and  
 14 requirements apply to the **home improvement** contract:
- 15 (1) For the purpose of subsection (a)(4) through (a)(7), the  
 16 description, completion dates, and statement of contingencies  
 17 must be prepared for the proposed home improvements to the  
 18 extent that the damage, loss, or expense is reasonably known by  
 19 the home improvement supplier.
- 20 (2) For the purpose of subsection (a)(4), the requirement that a  
 21 reasonably detailed description be included in the contract may be  
 22 satisfied with a statement that the subject real estate will be  
 23 repaired or restored to the same condition in which the real estate  
 24 existed before the damage, loss, or expense occurred, or to a  
 25 comparable condition.
- 26 (3) For the purpose of subsection (a)(6), the starting and  
 27 completion dates may be expressed in terms of the number of  
 28 days elapsed from the date when sufficient approval of the  
 29 insurance carrier terms allowing for adequate repair or restoration  
 30 is obtained.
- 31 (4) For the purpose of subsection (a)(8), the **consumer or insured**  
 32 consumer may agree to a contract price expressed in terms of the  
 33 **consumer's or insured** consumer's liability for payment after the  
 34 application of insurance proceeds or payments from a liable third  
 35 party.
- 36 (5) The **consumer or insured** consumer may elect, in writing, to  
 37 authorize the commencement of work on the home before the  
 38 **consumer or insured** consumer receives complete specifications.  
 39 However, a **consumer or an insured** consumer who elects to  
 40 authorize the commencement of work under this subdivision is  
 41 obligated for the home improvements specified and agreed to by  
 42 the insurance carrier.
- 43 **(6) This subdivision applies to a home improvement contract**  
 44 **that is entered into by a home improvement supplier and an**  
 45 **insured consumer after June 30, 2012, and that includes one**  
 46 **(1) or more exterior home improvements. Before entering into**  
 47 **a home improvement contract that is to be paid, in whole or**  
 48 **in part, from the proceeds of a personal line property and**  
 49 **casualty insurance policy or a commercial line farm insurance**  
 50 **policy that insures residential property, the home**

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improvement supplier must inform the insured consumer of the insured consumer's rights under section 10.5(b) of this chapter by doing the following:

(A) Furnishing to the insured consumer the following statement: "You may cancel this contract at any time before midnight on the third business day after you have received written notification from your insurance company that all or any part of the claim or contract is not a covered loss under the insurance policy. See attached notice of cancellation form for an explanation of this right."

(B) Furnishing to the insured consumer a form, in duplicate, that is captioned "NOTICE OF CANCELLATION" and is attached to the contract but easily detachable, and that contains the following statement in at least 10 point, boldface type:

**"NOTICE OF CANCELLATION**

**If you are notified by your insurance company that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of home improvement supplier) at (address of home improvement supplier's place of business) at any time before midnight on the third business day after you have received such notice from your insurance company.**

**If you cancel the contract, any payments made by you under the contract will be returned to you within ten (10) business days following receipt by (name of home improvement supplier) of your cancellation notice, minus any amounts you may owe for work already done by (name of home improvement supplier).**

**I HEREBY CANCEL THIS TRANSACTION**

\_\_\_\_\_

(date)

\_\_\_\_\_

(insured consumer's signature)".

(7) This subdivision applies to a home improvement contract that is entered into as a result of damage, loss, or expense that is to be paid, in whole or in part, from the proceeds of a personal line property and casualty insurance policy or a commercial line farm insurance policy that insures residential property. However, this subdivision does not apply to a consumer and a home improvement supplier that have a prior business relationship. After June 30, 2012, a home improvement supplier may not enter into a home improvement contract to which this subdivision applies unless one (1) or more of the following apply:

(A) The home improvement supplier resides, is domiciled, or is authorized to do business in Indiana.

(B) The home improvement supplier maintains in Indiana one (1) or more fixed physical locations from which the

1           **home improvement supplier engages in or solicits home**  
 2           **improvement contracts.**

3           **(C) The home improvement supplier has appointed a**  
 4           **resident agent in Indiana for service of legal process.**

5           (d) A modification to a home improvement contract is not  
 6           enforceable against a consumer unless the modification is stated in a  
 7           writing that is signed by the consumer.

8           SECTION 8. IC 24-5-11-10.5 IS ADDED TO THE INDIANA  
 9           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 10          [EFFECTIVE JULY 1, 2012]: **Sec. 10.5. (a) A home improvement**  
 11          **supplier shall not advertise, offer, or promise to pay or rebate any**  
 12          **part of an insurance deductible to induce a person to enter into a**  
 13          **home improvement contract or otherwise purchase goods or**  
 14          **services from the home improvement supplier. Acts prohibited by**  
 15          **this subsection include the following:**

16               (1) Advertising, offering, or promising to grant an allowance  
 17               or a discount against the home improvement contract price or  
 18               against other fees or charges.

19               (2) Advertising, offering, or promising to pay to an insured  
 20               consumer, or to any other person, any form of compensation,  
 21               including a gift, prize, bonus, coupon, credit, referral fee, or  
 22               other item of monetary value for any reason, including the  
 23               display of a sign or advertisement on residential property.

24           (b) This subsection applies to a home improvement contract that  
 25           is entered into by a home improvement supplier and an insured  
 26           consumer after June 30, 2012, and that includes one (1) or more  
 27           exterior home improvements. An insured consumer who enters  
 28           into a home improvement contract for which the home  
 29           improvement contract price, or charges for other goods and  
 30           services under the contract, are to be paid, in whole or in part,  
 31           from the proceeds of a personal line property and casualty  
 32           insurance policy or a commercial line farm insurance policy that  
 33           insures residential property, may cancel the contract before  
 34           midnight on the third business day after the insured consumer has  
 35           received written notice from the insurance company that any part  
 36           of the claim or contract is not a covered loss under the insurance  
 37           policy. An insured consumer who seeks to cancel a home  
 38           improvement contract under this subsection must provide to the  
 39           home improvement supplier, at the address specified in the form  
 40           provided under section 10(c)(6)(B) of this chapter, written notice  
 41           of the insured consumer's intent not to be bound by the contract.  
 42           If the notice of cancellation is sent by mail, the notice is effective  
 43           upon deposit of the notice into the United States mail, with postage  
 44           prepaid and the notice properly addressed to the home  
 45           improvement supplier. Subject to subsection (c), not later than ten  
 46           (10) days after a home improvement contract is cancelled under  
 47           this subsection, the home improvement supplier shall tender to the  
 48           insured consumer:

49               (1) any payment or deposit made by the insured consumer;  
 50               and

51               (2) any note or other evidence of indebtedness of the insured

- 1           **consumer.**  
2           **(c) If:**  
3           **(1) an insured consumer cancels a home improvement**  
4           **contract under subsection (b); and**  
5           **(2) the home improvement supplier has performed emergency**  
6           **or temporary services that the insured consumer**  
7           **acknowledged in writing before their performance to be**  
8           **necessary to prevent damage to the residential property;**  
9           **the home improvement supplier is entitled to the reasonable value**  
10          **of the emergency or temporary services performed.**  
11          **(d) A home improvement supplier shall not act as a public**  
12          **adjuster (as defined in IC 27-1-27-1).**  
            (Reference is to EHB 1237 as printed February 8, 2012.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1237**

**S**igned by:

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Representative VanNatter  
Chairperson

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Senator Eckerty

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Representative Moses

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Senator Mrvan

**House Conferees**

**Senate Conferees**