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:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 24-5-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies only to residential property. ~~which means real property used in whole or in part as a dwelling of a consumer and includes all fixtures to, structures on, and improvements to the real property.~~

SECTION 2. IC 24-5-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.5. As used in this chapter, "exterior home improvement" means any alteration, repair, replacement, reconstruction, or other modification made to the exterior of residential property, including the exterior of any structure on or fixture or improvement to the property. The term also includes the alteration, repair, replacement, reconstruction, or other modification of a residential roof system.**

SECTION 3. IC 24-5-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. **(a)** As used in this chapter, "home improvement" means any alteration, repair, **replacement, reconstruction,** or other modification of residential property.

(b) The term includes an exterior home improvement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) The home improvement contract price.

(9) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature.

(b) The home improvement contract must be in a form that each consumer who is a party to it can reasonably read and understand.

(c) If a home improvement contract is entered into ~~as a result of~~ **for** damage, loss, or expense that is ~~covered,~~ **to be paid,** in whole or in part, ~~by~~ **from** the proceeds of ~~an~~ **a personal line property and casualty** insurance policy **or a commercial line farm insurance policy that insures residential property,** or **for** damage, loss, or expense for which a third party is liable, the following conditions and requirements apply to the **home improvement** contract:

(1) For the purpose of subsection (a)(4) through (a)(7), the description, completion dates, and statement of contingencies must be prepared for the proposed home improvements to the extent that the damage, loss, or expense is reasonably known by the home improvement supplier.

(2) For the purpose of subsection (a)(4), the requirement that a reasonably detailed description be included in the contract may be satisfied with a statement that the subject real estate will be repaired or restored to the same condition in which the real estate existed before the damage, loss, or expense occurred, or to a comparable condition.

(3) For the purpose of subsection (a)(6), the starting and completion dates may be expressed in terms of the number of days elapsed from the date when sufficient approval of the insurance carrier terms allowing for adequate repair or restoration is obtained.

(4) For the purpose of subsection (a)(8), the **consumer or insured** consumer may agree to a contract price expressed in terms of the **consumer's or insured** consumer's liability for payment after the application of insurance proceeds or payments from a liable third party.

(5) The **consumer or insured** consumer may elect, in writing, to authorize the commencement of work on the home before the **consumer or insured** consumer receives complete specifications. However, a **consumer or an insured** consumer who elects to authorize the commencement of work under this subdivision is obligated for the home improvements specified and agreed to by the insurance carrier.

(6) This subdivision applies to a home improvement contract that is entered into by a home improvement supplier and an insured consumer after June 30, 2012, and that includes one (1) or more exterior home improvements. Before entering into a home improvement contract 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, the home

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

home improvement supplier engages in or solicits home improvement contracts.

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

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

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

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

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

(b) This subsection applies to a home improvement contract that is entered into by a home improvement supplier and an insured consumer after June 30, 2012, and that includes one (1) or more exterior home improvements. An insured consumer who enters into a home improvement contract for which the home improvement contract price, or charges for other goods and services under the contract, are 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, may cancel the contract before midnight on the third business day after the insured consumer has received written notice from the insurance company that any part of the claim or contract is not a covered loss under the insurance policy. An insured consumer who seeks to cancel a home improvement contract under this subsection must provide to the home improvement supplier, at the address specified in the form provided under section 10(c)(6)(B) of this chapter, written notice of the insured consumer's intent not to be bound by the contract. If the notice of cancellation is sent by mail, the notice is effective upon deposit of the notice into the United States mail, with postage prepaid and the notice properly addressed to the home improvement supplier. Subject to subsection (c), not later than ten (10) days after a home improvement contract is cancelled under this subsection, the home improvement supplier shall tender to the insured consumer:

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

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

consumer.

(c) If:

(1) an insured consumer cancels a home improvement contract under subsection (b); and

(2) the home improvement supplier has performed emergency or temporary services that the insured consumer acknowledged in writing before their performance to be necessary to prevent damage to the residential property;

the home improvement supplier is entitled to the reasonable value of the emergency or temporary services performed.

(d) A home improvement supplier shall not act as a public 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

Signed by:

Representative VanNatter Chairperson	Senator Eckerty
Representative Moses	Senator Mrvan
House Conferees	**Senate Conferees**