

Senate Bill 201

By: Senators Walker III of the 20th, Goodman of the 8th, Hodges of the 3rd, Tillery of the 19th, Watson of the 11th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to
2 unfair or deceptive practices in consumer transactions unlawful and examples, so as to
3 provide increased consumer protection for homeowners entering into contracts with
4 contractors following natural disasters; to provide for certain contractual requirements; to
5 provide for notice language; to amend Code Section 33-6-5 of the Official Code of Georgia
6 Annotated, relating to unfair methods of competition and unfair or deceptive acts or
7 practices, so as to prohibit the assignment of benefits in certain circumstances; to provide for
8 definitions; to provide for related matters; to provide for legislative findings; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds that:

- 13 (1) Following natural disasters, homeowners often need for repairs to be completed to their
14 homes in an expeditious manner;
- 15 (2) Due to such time pressures, homeowners may enter into contracts with contractors
16 much more quickly than such homeowners typically would;

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- 17 (3) Many homeowners believe that assigning their insurance proceeds to contractors who
 18 contract to work on their homes will expedite the repairs of such homes;
- 19 (4) Such homeowners may not realize that some contractors will accept the assigned
 20 insurance proceeds and then fail to expeditiously perform the required work or perform
 21 the work in a substandard manner;
- 22 (5) There is a need in this state to provide greater protection for homeowners following
 23 natural disasters to ensure that contracted work on their homes is performed in an
 24 expeditious and professional manner; and
- 25 (6) There is also a need to specifically prohibit the assignment of insurance proceeds to
 26 contractors for a period of one year following the occurrence of a natural disaster.

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SECTION 2.

28 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or
 29 deceptive practices in consumer transactions unlawful and examples, is amended in
 30 subsection (b) by striking "and" at the end of paragraph (34), by replacing the period at the
 31 end of paragraph (35) with "; and", and by adding a new paragraph to read as follows:

32 "(36)(A) With respect to any contractor entering into a contract with a homeowner
 33 within one year of a natural disaster for the provision of services for the repair,
 34 replacement, or mitigation of damage of or to the homeowner's home caused by such
 35 disaster:

36 (i) Failing to substantially commence work on the contracted services within one year
 37 of the execution of such contract;

38 (ii) Completing all or a portion of the agreed upon services in a substandard manner;

39 (iii) Entering into a contract with the homeowner whereby the homeowner assigned
 40 insurance proceeds to the contractor; or

41 (iv) Failing to comply with subparagraph (B) of this paragraph.

42 (B) Any contractor entering into a contract with a homeowner within one year of a
43 natural disaster for the provision of services for the repair, replacement, or mitigation
44 of damage of or to the homeowner's home caused by such disaster shall:

45 (i) Accept the cancellation of the contract by the homeowner prior to midnight on the
46 fifth business day after such homeowner has received written notice from the insurer
47 that all or any part of the claim or contract related to the natural disaster is not a
48 covered loss under the homeowner's insurance policy. Cancellation shall be
49 evidenced by the homeowner giving written notice of cancellation to the contractor
50 at the address stated in the contract. Notice of cancellation, if given by mail, shall be
51 effective upon deposit into the United States mail, postage prepaid and properly
52 addressed to the contractor. Notice of cancellation need not take a particular form and
53 shall be sufficient if it indicates, by any form of written expression, the intention of
54 the homeowner not to be bound by the contract; and

55 (ii) Before entering a contract as provided in this subparagraph:

56 (I) Furnish the homeowner with a statement in boldface type of a minimum size of
57 ten points in substantially the following form:

58 'You may cancel this contract at any time before midnight on the fifth business day
59 after you have received written notification from your insurer that all or any part of
60 the claim or contract is not a covered loss under the insurance policy. This right to
61 cancel is in addition to any other rights of cancellation which may be found in state
62 or federal law or regulation. See the attached notice of cancellation form for an
63 explanation of this right'; and

64 (II) Furnish each homeowner with a fully completed form in duplicate, captioned
65 'NOTICE OF CANCELLATION,' which shall be attached to the contract but easily
66 detachable, and which shall contain in boldface type of a minimum size of ten
67 points the following statement:

68 NOTICE OF CANCELLATION

69 If you are notified by your insurer that all or any part of the claim or contract is not
 70 a covered loss under the insurance policy, you may cancel the contract by mailing
 71 or delivering a signed and dated copy of this cancellation notice or any other written
 72 notice to (name of contractor) at (address of contractor's place of business) at any
 73 time prior to midnight on the fifth business day after you have received such notice
 74 from your insurer.

75 I HEREBY CANCEL THIS TRANSACTION

76 _____
 77 (date)

78 _____
 79 (insured's signature).'

80 (C) Notwithstanding other provisions of law in this paragraph, if the contractor has
 81 performed any emergency services, acknowledged by the homeowner in writing to be
 82 necessary to prevent immediate damage to the premises, the contractor shall be entitled
 83 to collect the reasonable amount due for the emergency services at the time they are
 84 rendered. Any provision in a contract provided for in this paragraph that requires the
 85 payment of any fee for any services except emergency services shall not be enforceable
 86 against any homeowner who has canceled a contract under this paragraph.

87 (D) As used in this paragraph, the term 'natural disaster' means a flood, tornado,
 88 hurricane, earthquake, or other occurrence for which a state of emergency is proclaimed
 89 by the Governor."

90 **SECTION 3.**

91 Code Section 33-6-5 of the Official Code of Georgia Annotated, relating to unfair methods
 92 of competition and unfair or deceptive acts or practices, is amended by striking "and" at the
 93 end of paragraph (13), striking the period at the end of paragraph (14) and inserting "; and"
 94 in lieu thereof, and adding a new paragraph to read as follows:

95 "(15) No insurer shall sell homeowner's insurance policies that allow for the assignment
96 of proceeds to a contractor within one year of a natural disaster which causes damage to
97 the insured's residential property. As used in this paragraph, the term 'residential
98 property' means real property used or occupied as the primary residence of a natural
99 person."

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SECTION 4.

101 All laws and parts of laws in conflict with this Act are repealed.