

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 219

HOUSE BILL 2091

AN ACT

AMENDING TITLE 32, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1158.02; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, chapter 10, article 3, Arizona Revised Statutes,
3 is amended by adding section 32-1158.02, to read:

4 32-1158.02. Residential construction contracts

5 A. FOR RESIDENTIAL REPAIR OR REPLACEMENT OF DAMAGE RESULTING DIRECTLY
6 FROM A CATASTROPHIC STORM IN A SPECIFIC AREA THAT IS DESIGNATED BY AN
7 INSURER, IN ADDITION TO THE REQUIREMENTS OF SECTION 32-1158, A LICENSED
8 CONTRACTOR WHO ENTERS INTO A CONTRACT FOR THE REPAIR OR REPLACEMENT OF A
9 RESIDENTIAL ROOF OR OTHER REPAIR OR REPLACEMENT WITHIN THE SCOPE OF THE
10 REGULATION OF THIS CHAPTER WITH A PURCHASER WHO RESIDES IN THE RESIDENCE OR
11 WHO INTENDS TO RESIDE IN THE RESIDENCE AFTER THE COMPLETION OF THE CONTRACT
12 SHALL INCLUDE AT LEAST THE FOLLOWING PROVISIONS:

13 1. A STATEMENT IN AT LEAST TEN-POINT BOLD TYPE IN SUBSTANTIALLY THE
14 FOLLOWING FORM: "YOU MAY CANCEL THIS CONTRACT AT ANY TIME WITHIN SEVENTY-TWO
15 HOURS AFTER YOU HAVE BEEN NOTIFIED THAT YOUR INSURER HAS DENIED YOUR CLAIM TO
16 PAY FOR THE GOODS AND SERVICES TO BE PROVIDED UNDER THIS CONTRACT."

17 2. A STATEMENT IN AT LEAST TEN-POINT BOLD TYPE IN SUBSTANTIALLY THE
18 FOLLOWING FORM: "YOU MAY CANCEL THIS CONTRACT AT ANY TIME, FOR ANY REASON,
19 WITHIN FOUR BUSINESS DAYS AFTER SIGNING THIS CONTRACT."

20 3. A COPY OF A REPAIR ESTIMATE THAT CONTAINS THE FOLLOWING
21 DISCLOSURES:

22 (a) A PRECISE DESCRIPTION AND LOCATION OF ALL DAMAGE CLAIMED ON THE
23 REPAIR ESTIMATE.

24 (b) FOR ROOFING REPAIR OR REPLACEMENT, A DETAILED DESCRIPTION OF THE
25 WORK TO BE DONE INCLUDING THE SQUARE FOOTAGE OF THE REPAIR AREA OR THE
26 REPLACEMENT AREA.

27 (c) IF THE DAMAGED AREAS ARE NOT INCLUDED IN THE REPAIR ESTIMATE, A
28 SPECIFICATION OF THOSE AREAS AND ANY REASON FOR THEIR EXCLUSION FROM THE
29 REPAIR ESTIMATE.

30 (d) WHETHER OR NOT THE PROPERTY WAS INSPECTED BEFORE THE PREPARATION
31 OF THE ESTIMATE AND THE NATURE OF THAT INSPECTION, SPECIFICALLY WHETHER THE
32 ROOF WAS PHYSICALLY ACCESSED.

33 (e) THAT A CONTRACTOR HAS MADE NO ASSURANCES THAT THE CLAIMED LOSS
34 WILL BE COVERED BY AN INSURANCE POLICY.

35 (f) THAT THE POLICYHOLDER IS RESPONSIBLE FOR PAYMENT FOR ANY WORK
36 PERFORMED IF THE INSURER SHOULD DENY PAYMENT OR COVERAGE FOR ANY PART OF THE
37 LOSS.

38 B. A RESIDENTIAL OWNER OF A PROPERTY OR CASUALTY INSURANCE POLICY HAS
39 THE RIGHT TO CANCEL THE CONTRACT DESCRIBED IN SUBSECTION A OF THIS SECTION
40 WITHIN SEVENTY-TWO HOURS AFTER THE INSURED OWNER HAS BEEN NOTIFIED BY THE
41 INSURER THAT THE CLAIM HAS BEEN DENIED.

42 C. IN ADDITION TO THE RIGHT PRESCRIBED IN SUBSECTION B OF THIS
43 SECTION, THE INSURED OWNER OF A RESIDENCE HAS THE RIGHT TO CANCEL THE
44 CONTRACT DESCRIBED IN SUBSECTION A OF THIS SECTION FOR ANY REASON WITHIN FOUR
45 BUSINESS DAYS AFTER SIGNING THE CONTRACT. A CANCELLATION SHALL BE EVIDENCED

1 BY THE INSURED OWNER GIVING WRITTEN NOTICE OF CANCELLATION TO THE
2 CONTRACTOR'S ADDRESS STATED IN THE CONTRACT. NOTICE OF CANCELLATION DOES NOT
3 NEED TO BE IN A PARTICULAR FORM EXCEPT THAT THE NOTICE MUST INDICATE IN
4 WRITING THE INTENT OF THE INSURED OWNER NOT TO BE BOUND BY THE CONTRACT.

5 D. WITHIN TEN DAYS AFTER A CONTRACT HAS BEEN CANCELED PURSUANT TO THIS
6 SECTION, THE CONTRACTOR MUST TENDER TO THE INSURED OWNER ANY PAYMENTS MADE BY
7 THE INSURED OWNER AND ANY NOTE OR OTHER EVIDENCE OF INDEBTEDNESS EXCEPT THAT
8 IF THE CONTRACTOR HAS PERFORMED ANY EMERGENCY SERVICES, THE CONTRACTOR IS
9 ENTITLED TO RECEIVE REASONABLE COMPENSATION FOR THE SERVICES IF THE INSURED
10 OWNER HAS RECEIVED A DETAILED DESCRIPTION AND ITEMIZATION OF THE CHARGES FOR
11 THOSE SERVICES.

12 E. THE DOWN PAYMENT SECTION ON THE EXECUTION OF A CONTRACT ENTERED
13 INTO PURSUANT TO THIS SECTION SHALL NOT REQUIRE MORE THAN FIFTY PER CENT OF
14 THE TOTAL CONTRACT.

15 F. ANY CHANGES, ADDITIONS OR DELETIONS TO THE WORK ORDER SPECIFIED IN
16 THE ORIGINAL CONTRACT SHALL BE INCLUDED IN A WRITTEN CHANGE ORDER THAT IS
17 SIGNED BY THE HOMEOWNER.

18 G. A CONTRACTOR SHALL IMMEDIATELY NOTIFY AND DISCLOSE IN WRITING TO
19 THE RESIDENTIAL OWNER OF A PROPERTY OR CASUALTY INSURANCE POLICY ANY
20 CANCELLATION OF THE CONTRACTOR'S WORKERS' COMPENSATION COVERAGE.

21 H. A CONTRACTOR'S FAILURE TO COMPLY WITH THIS SECTION IS GROUNDS FOR
22 LICENSE SUSPENSION OR REVOCATION PURSUANT TO SECTION 32-1154.

23 I. AN INDIVIDUAL OR CONTRACTOR WHO PREPARES A REPAIR ESTIMATE FOR
24 POST-STORM REPAIR OR REPLACEMENT SERVICES AS DESCRIBED IN SUBSECTION A OF
25 THIS SECTION IN ANTICIPATION OF MAKING AN INSURANCE CLAIM MUST DISCLOSE THE
26 FOLLOWING INFORMATION TO THE INSURED OWNER:

27 1. A PRECISE DESCRIPTION AND LOCATION OF ALL DAMAGE CLAIMED OR
28 INCLUDED ON THE REPAIR ESTIMATE.

29 2. DOCUMENTATION TO SUPPORT THE DAMAGE CLAIMED ON THE ESTIMATE,
30 INCLUDING PHOTOGRAPHS, DIGITAL IMAGES OR ANOTHER MEDIUM.

31 3. A DETAILED DESCRIPTION AND ITEMIZATION OF ANY EMERGENCY REPAIRS
32 ALREADY COMPLETED BY THE CONTRACTOR.

33 4. IF DAMAGED AREAS ARE NOT INCLUDED IN THE REPAIR ESTIMATE, A
34 SPECIFICATION OF THOSE AREAS AND ANY REASON FOR THEIR EXCLUSION FROM THE
35 REPAIR ESTIMATE.

36 5. A PROVISION STATING WHETHER OR NOT THE PROPERTY WAS INSPECTED
37 BEFORE THE PREPARATION OF THE ESTIMATE, IF THE CONTRACT IS A CONTRACT FOR
38 REPAIR OR REPLACEMENT OF A ROOF, AND WHETHER THE ROOF WAS PHYSICALLY
39 ACCESSED.

40 6. A PROVISION STATING THAT THE CONTRACTOR HAS MADE NO ASSURANCES THAT
41 THE CLAIMED LOSS WILL BE COVERED BY AN INSURANCE POLICY.

42 J. IF AN INSURED OWNER SUBMITS A CLAIM WITH THE INSURER FOR
43 RESIDENTIAL REPAIR OR REPLACEMENT PURSUANT TO THIS SECTION, THE CONTRACTOR
44 MAY NOT BEGIN WORK ON THE REPAIR OR REPLACEMENT UNTIL THE INSURER APPROVES OR
45 DENIES THE CLAIM EXCEPT IF THE WORK IS NECESSARY TO PREVENT FURTHER LOSS.

1 K. A PERSON WHO IS NOT LICENSED PURSUANT TO THIS CHAPTER AND WHO IS
2 NOT EXEMPT FROM LICENSURE PURSUANT TO THIS CHAPTER MAY NOT BRING A PRIVATE
3 CAUSE OF ACTION TO RECOVER MONIES FROM A HOMEOWNER FOR ANY RESIDENTIAL REPAIR
4 OR REPLACEMENT THAT THE PERSON DOES PURSUANT TO THIS SECTION.

5 L. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A CONTRACTOR
6 PROVIDING POST-STORM REPAIR OR REPLACEMENT CONTRACTING SERVICES SHALL NOT ACT
7 ON BEHALF OF AN INSURED OWNER IN NEGOTIATING FOR THE SETTLEMENT OF A CLAIM
8 FOR LOSS OR DAMAGE UNDER ANY POLICY OF INSURANCE COVERING THE INSURED OWNER'S
9 RESIDENCE AND SHALL NOT MAKE ANY ASSURANCE THAT THE PROPOSED REPAIR OR
10 REPLACEMENT CONTRACTING SERVICES WILL BE COVERED BY AN INSURANCE POLICY. THE
11 CONTRACTOR MAY COMMUNICATE WITH AN INSURER TO ASSIST IN ANY CLAIM DISPUTES,
12 INCLUDING ACTUAL DAMAGES INCURRED, IF BOTH OF THE FOLLOWING APPLY:

- 13 1. THE INSURED OWNER GIVES THE CONTRACTOR PERMISSION.
- 14 2. THE CONTRACTOR IS NOT COMPENSATED FOR THE COMMUNICATION.

15 M. WITH A POLICYHOLDER'S WRITTEN CONSENT, AN INSURER PROVIDING
16 COVERAGE FOR A POST-STORM RESIDENTIAL REPAIR OR REPLACEMENT MAY ISSUE ITS
17 CHECK IN THE NAME OF BOTH THE POLICYHOLDER AND THE CONTRACTOR WITH THE
18 CONTRACTOR'S LICENSE NUMBER ISSUED PURSUANT TO THIS CHAPTER NOTED ON THE
19 CHECK.

20 N. THIS SECTION SHALL NOT LIMIT THE FOLLOWING INDIVIDUALS FROM
21 CONTACTING AND NEGOTIATING WITH THE INSURED OWNER:

- 22 1. A GOVERNMENT OFFICIAL ENGAGED IN THE PERFORMANCE OF OFFICIAL
23 DUTIES.
- 24 2. AN ATTORNEY ENGAGED IN THE PERFORMANCE OF PROFESSIONAL DUTIES.
- 25 3. LICENSED INSURERS AND LICENSED INSURANCE PRODUCERS WHILE ENGAGED IN
26 THE PERFORMANCE OF THEIR DUTIES IN CONNECTION WITH INSURANCE TRANSACTIONS.
- 27 4. ANY SALARIED OFFICE EMPLOYEE PERFORMING EXCLUSIVELY CLERICAL OR
28 ADMINISTRATIVE DUTIES AND WHO IS NOT COMPENSATED IN ANY MANNER FOR SECURING
29 CONTRACTS RELATED TO POST-STORM RESIDENTIAL REPAIR OR REPLACEMENT
30 CONTRACTING.
- 31 5. PHOTOGRAPHERS, ESTIMATORS, APPRAISERS OR ENGINEERS EMPLOYED
32 EXCLUSIVELY FOR THE PURPOSE OF FURNISHING TECHNICAL ASSISTANCE.
- 33 6. A PRIVATE INVESTIGATOR WHO IS LICENSED PURSUANT TO CHAPTER 24 OF
34 THIS TITLE.
- 35 7. A FULL-TIME SALARIED EMPLOYEE OF A PROPERTY OWNER OR PROPERTY
36 MANAGEMENT COMPANY WHO IS RETAINED BY A PROPERTY OWNER, WHO HAS NOT BEEN
37 HIRED FOR THE PURPOSE OF HANDLING A SPECIFIC CLAIM RESULTING FROM A FIRE OR
38 CASUALTY LOSS AND WHO ACTS AT THE SOLE DISCRETION OF THE PROPERTY OWNER OR
39 MANAGEMENT COMPANY REGARDING A CLAIM RELATED TO THE OWNER'S PROPERTY.

APPROVED BY THE GOVERNOR APRIL 10, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2012.

Passed the House February 23, 2012

Passed the Senate March 28, 2012

by the following vote: 56 Ayes,

by the following vote: 18 Ayes,

2 Nays, 1 Not Voting
1 vacant

12 Nays, 0 Not Voting

Leah M. Holcomb
Speaker of the House

Steve Pierce
President of the Senate

Cheryl Laube
Chief Clerk of the House

Charmain Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

H.B. 2091

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 5, 2012,

by the following vote: 54 Ayes,

5 Nays, 1 Not Voting


Speaker of the House


Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of April, 2012,

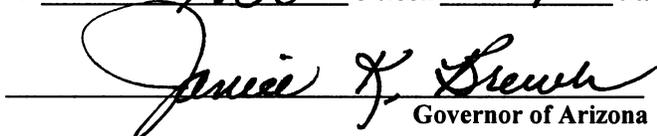
at 1 o'clock P M.


Secretary to the Governor

Approved this 10th day of

April, 2012.

at 4:50 o'clock P. M.


Governor of Arizona

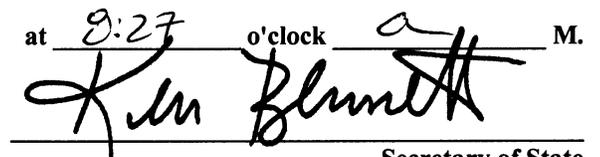
H.B. 2091

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11th day of April, 2012

at 8:27 o'clock a M.


Secretary of State