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**MEMORANDUM**

To: House Committee on Judiciary

From: Jason Thompson, Senior Assistant Revisor of Statutes

Natalie Scott, Assistant Revisor of Statutes

Date: March 11, 2019

Subject: Bill Brief for SB 78

Senate Bill 78 regulates assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate. The bill creates a new section of law that will be a part of and supplemental to the Kansas consumer protection act, as provided in subsection (f).

The bill applies to a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate. “Residential contractor” is defined as a person in the business of contracting or offering to contract with an owner or possessor of residential real estate to: (1) Repair or replace a roof system or perform any other exterior repair, replacement, construction or reconstruction work on residential real estate; (2) perform interior or exterior cleanup services on residential real estate; (3) arrange for, manage or process such work; or (4) serve as a representative, agent or assignee of the owner or possessor of residential real estate. “Residential real estate” is defined as a new or existing building, including a detached garage, constructed for habitation by at least one but no more than four families.

Subsection (b) provides the requirements for a valid post-loss assignment of rights or benefits. An assignment may authorize a residential contractor to be named as a copayee for the payment of benefits under a property and casualty insurance policy covering residential real estate. An assignment shall: (1) Include a statement that the residential contractor has made no assurances that the claimed loss will be fully covered by an insurance contract; (2) include a notice detailed in the statute; and (3) provide that, in addition to any other right to revoke, the named insured has the right to cancel the assignment within five business days after execution.

House Judiciary Committee

3-11-2019

Attachment 1

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The residential contractor shall provide the assignment to the insurer of the residential real estate within three business days after the assignment is signed. As introduced, this time period was five days after the five-day right to cancel period expires, and this was amended in the Senate Judiciary Committee. An assignment shall not: (1) Impair the interest of a mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment; or (2) prevent or inhibit an insurer from communicating with the named insured or mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment.

Subsection (d) provides that an assignment is void if the residential contractor: (1) Violates any provision of this section; or (2) is not in compliance with any of the requirements of the Kansas roofing registration act. Subsection (e) provides that any violation of this section is a deceptive act or practice under the Kansas consumer protection act.