CHAPTER 26.1-39.2
RESIDENTIAL CONTRACTOR CONTRACTS

26.1-39.2-01. Definitions.

As used in this chapter:

1. "Residential contractor" means a person in the business of contracting or offering to contract with an owner or possessor of residential real estate to:
   a. Repair or replace a roof system or perform other exterior repair, replacement, construction, or reconstruction work on residential real estate;
   b. Perform interior or exterior cleanup services on residential real estate; or
   c. Arrange for, manage, or process the work referred to in subdivision a or b.
2. "Residential real estate" means a new or existing building, including a detached garage, constructed for habitation by at least one but no more than four families.
3. "Roof system" includes roof coverings, roof sheathing, roof weatherproofing, and insulation.

26.1-39.2-02. Contract to be paid from proceeds of property and casualty insurance policy - Right to cancel - Duties.

1. A person that enters a written contract with a residential contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract before midnight on the later of the fifth business day after the person has:
   a. Entered the written contract; or
   b. Received written notice from the person's insurer that all or part of the claim or contract is not a covered loss under the insurance policy.
2. The written contract must include a statement that the insured homeowner has the right to cancel the contract in accordance with subsection 1.
3. The person seeking to cancel the contract shall evidence the cancellation by giving the residential contractor a signed and dated copy of written notice of the cancellation.
   a. The notice of cancellation may be delivered or mailed to the address of the residential contractor's place of business as stated in the contract.
   b. The notice of cancellation must include a copy of the written notice from the person's insurer, if applicable, to the effect that all or part of the claim or contract is not a covered loss under the insurance policy.
   c. Notice of cancellation given by mail is effective upon deposit in the United States mail, postage prepaid, if properly addressed to the residential contractor.
   d. Notice of cancellation is not required to be in a particular form and is sufficient if the notice indicates the intent of the insured not to be bound by the contract.
4. Within ten days after a contract to provide goods or services to be paid from the proceeds of a property and casualty insurance policy has been canceled by notification pursuant to this section, the residential contractor shall tender to the person canceling the contract any payments, partial payments, or deposits made by the person and any note or other evidence of indebtedness, except if the residential contractor has provided goods or services agreed to by the person in writing to be necessary to prevent damage to the premises, the residential contractor is entitled to be paid the reasonable value of those goods or services. A contract provision to provide goods or services to be paid from the proceeds of a property and casualty insurance policy requiring the payment of a fee that is not for those goods or services

is not enforceable against a person that has canceled a contract pursuant to this section.

26.1-39.2-03. Prohibited acts.

A residential contractor may not promise to rebate a portion of an insurance deductible as an inducement to the sale of goods or services. A promise to rebate a portion of an insurance deductible includes granting an allowance or offering a discount against the fees to be charged or paying an insured or a person associated with the residential real estate a form of compensation, except for an item of nominal value.

26.1-39.2-04. Post-loss assignment of rights or benefits.

A post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring residential real estate is subject to each of the following:

1. The 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.
2. The assignment must be provided to the insurer of the residential real estate within five business days after execution.
3. The assignment must include a statement that the residential contractor made no assurances the claimed loss will be fully covered by an insurance contract and must include the following notice in capitalized fourteen-point type:
   "YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY. THE ITEMIZED DESCRIPTION OF THE WORK TO BE DONE SHOWN IN THIS ASSIGNMENT FORM HAS NOT BEEN AGREED TO BY THE INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING.
   THE INSURER MAY ONLY PAY FOR THE COST TO REPAIR OR REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL, SUBJECT TO THE TERMS OF THE POLICY."
4. The assignment may not 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.
5. The assignment may not 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.
6. The assignment must include a statement that the insured homeowner has the right to cancel the assignment in accordance with subsection 1 of section 26.1-39.2-02.

26.1-39.2-05. Itemized description of work.

Before commencement of repair or replacement work, a residential contractor shall furnish the insured and insurer with an itemized description of the work to be done and the materials, labor, and fees for repair or replacement of the damaged residential real estate and the total itemized amount agreed to be paid for the work to be performed, except the description may not limit the insured or residential contractor from identifying other goods and services necessary to complete repairs or replacement associated with a covered loss.

26.1-39.2-06. Notice required.

A written contract, repair estimate, or work order prepared by a residential contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy must include the following notice of the prohibition contained in section 26.1-39.2-03 in capitalized fourteen-point type which must be signed by the named insured and sent to the named insured's insurer before payment of proceeds under the applicable insurance policy:

"IT IS A VIOLATION OF THE INSURANCE LAWS OF NORTH DAKOTA TO REBATE ANY PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO ACCEPT A RESIDENTIAL CONTRACTOR'S PROPOSAL TO REPAIR DAMAGED PROPERTY. REBATE OF A DEDUCTIBLE INCLUDES GRANTING AN ALLOWANCE OR OFFERING A DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR PAYING THE INSURED HOMEOWNER THE DEDUCTIBLE AMOUNT SET FORTH IN THE INSURANCE POLICY.

THE INSURED HOMEOWNER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF THE DEDUCTIBLE. THE INSURANCE FRAUD STATUTES AND NORTH DAKOTA CRIMINAL STATUTES PROHIBIT THE INSURED HOMEOWNER FROM ACCEPTING FROM A RESIDENTIAL CONTRACTOR A REBATE OF THE DEDUCTIBLE OR OTHERWISE ACCEPTING AN ALLOWANCE OR DISCOUNT FROM THE RESIDENTIAL CONTRACTOR TO COVER THE COST OF THE DEDUCTIBLE. VIOLATIONS MAY BE PUNISHABLE BY CIVIL OR CRIMINAL PENALTIES."

26.1-39.2-07. Violation of the chapter.

A contract entered with a residential contractor is void if the residential contractor violates this chapter.

26.1-39.2-08. Rulemaking authority.

The commissioner may adopt rules to carry out this chapter.