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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

To prohibit insurers from canceling or refusing to renew homeowners insurance policies because of the presence of certain types of drywall in the home.

IN THE HOUSE OF REPRESENTATIVES

Mr. MELANCON introduced the following bill; which was referred to the
Committee on _____

A BILL

To prohibit insurers from canceling or refusing to renew homeowners insurance policies because of the presence of certain types of drywall in the home.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drywall Victims Insur-
5 ance Protection Act of 2009”.

1 **SEC. 2. PROHIBITION OF CANCELING OR DECLINING TO**
2 **RENEW HOMEOWNERS INSURANCE BECAUSE**
3 **OF PRESENCE OF CERTAIN DRYWALL.**

4 It shall be unlawful for any insurer—

5 (1) to cancel, or decline to renew, any coverage
6 for homeowners' insurance for any single-family
7 housing based on the presence, or possibility of pres-
8 ence, in the housing of any drywall that has a cov-
9 ered characteristic; or

10 (2) in any renewal of homeowners' insurance
11 for such a structure, to discriminate in the amount,
12 rates for coverage, or other terms of such coverage
13 based on the presence, or possibility of presence, in
14 the structure of any drywall that has a covered char-
15 acteristic.

16 **SEC. 3. PRIVATE CAUSE OF ACTION.**

17 (a) IN GENERAL.—An insured who has been ad-
18 versely affected by a violation of section 2 by an insurer
19 may bring a civil action against the insurer in an appro-
20 priate Federal or State court for relief under subsection
21 (b).

22 (b) RELIEF.—Upon proof of a violation of section 2
23 by a preponderance of the evidence in an action described
24 in subsection (a), the court may award appropriate legal
25 and equitable relief, including temporary, preliminary, and
26 permanent injunctive relief and compensatory damages.

1 (c) ATTORNEYS' FEES AND OTHER COSTS.—In any
2 action or proceeding under this section, the court shall
3 allow a prevailing plaintiff reasonable attorneys' fee as
4 part of the costs, and shall include any expert fees as part
5 of the attorneys' fee.

6 **SEC. 4. DEFINITIONS.**

7 For purposes of this Act, the following definitions
8 shall apply:

9 (1) COVERED CHARACTERISTIC.—The term
10 “covered characteristic” means, with respect to any
11 drywall, that the drywall—

12 (A) was imported from, or originated in,
13 China at any time during the period consisting
14 of calendar years 2004 through 2007; or

15 (B) contains elevated levels of sulphur or
16 strontium.

17 (2) INSURED.—The term “insured” means any
18 natural person who has purchased coverage for
19 homeowners' insurance.

20 (3) INSURER.—The term “insurer” means any
21 entity, including any affiliate thereof, that is licensed
22 or admitted to engage in the business of providing
23 homeowners' insurance in any State.

24 (4) HOMEOWNERS' INSURANCE.—The term
25 “homeowners' insurance” means property and cas-

1 ualty insurance coverage against losses to single-
2 family housing.

3 (5) SINGLE-FAMILY HOUSING.—The term “sin-
4 gle-family housing” means a residential real prop-
5 erty (including individual units of condominium and
6 cooperative structures) designed principally for the
7 occupancy of from one to four families.