

111TH CONGRESS  
1ST SESSION

# H. R. 4094

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2009

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

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## 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”.

6       **SEC. 2. PROHIBITION OF CANCELING OR DECLINING TO**  
7                       **RENEW HOMEOWNERS INSURANCE BECAUSE**  
8                       **OF PRESENCE OF CERTAIN DRYWALL.**

9       It shall be unlawful for any insurer—

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

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

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

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

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

23          (c) ATTORNEYS' FEES AND OTHER COSTS.—In any  
24          action or proceeding under this section, the court shall  
25          allow a prevailing plaintiff reasonable attorneys' fee as

1 part of the costs, and shall include any expert fees as part  
2 of the attorneys' fee.

3 **SEC. 4. DEFINITIONS.**

4 For purposes of this Act, the following definitions  
5 shall apply:

6 (1) COVERED CHARACTERISTIC.—The term  
7 “covered characteristic” means, with respect to any  
8 drywall, that the drywall—

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

12 (B) contains elevated levels of sulphur or  
13 strontium.

14 (2) INSURED.—The term “insured” means any  
15 natural person who has purchased coverage for  
16 homeowners' insurance.

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

21 (4) HOMEOWNERS' INSURANCE.—The term  
22 “homeowners' insurance” means property and cas-  
23 uality insurance coverage against losses to single-  
24 family housing.

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

