

STATE OF NEW YORK

3246--B

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2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. BRINDISI, BLAKE, GALEF, HOOPER, HYNDMAN, LUPARDO, McDONALD, MOSLEY, OTIS, SANTABARBARA, SKOUFIS, SOLAGES, STECK, TITONE, D'URSO, QUART, MORELLE -- Multi-Sponsored by -- M. of A. ABBATE, COOK, HIKIND, RICHARDSON, SIMON -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the general business law, in relation to roofing contract provisions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 770 of the general business law is amended by
2 adding a new subdivision 8 to read as follows:

3 8. "Roofing contractor" means a person, firm or corporation, including
4 but not limited to, a person that is a nonresident roofing contractor,
5 independent contractor, day laborer or subcontractor engaged in the
6 business of roofing, gutter, downspout or siding services for a fee or
7 who offers to engage in or solicits roofing-related services, including
8 construction, installation, renovation, repair, maintenance, alteration
9 or waterproofing. This definition shall not include a person engaged in
10 the demolition of a structure or the cleanup of construction waste and
11 debris that contains roofing material, nor a person engaged in building
12 a new home or housing development. "Roofing contractor" shall not
13 include:

14 (a) an owner or farm property owner who physically performs, or has
15 employees who perform repairing, remodeling, altering, converting, or
16 modernizing of, or adding to, their own dwelling or another structure
17 located on the property owned by the person without the assistance of a
18 roofing contractor.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (b) any authorized employee or representative of the United States
2 government, the state of New York, or any political subdivision perform-
3 ing the repairing, remodeling, altering, converting, or modernizing of,
4 or adding to, government property.

5 § 2. The general business law is amended by adding a new section 771-b
6 to read as follows:

7 § 771-b. Responsibilities of roofing contractors. 1. Every roofing
8 contractor shall enter into a written contract with an owner pursuant to
9 all of the provisions of section seven hundred seventy-one of this arti-
10 cle before engaging in the business of roofing, gutter, downspout or
11 siding services for such owner. In addition, the contract entered into
12 under this section shall contain the name of the insurer, type of insur-
13 ance coverage as required by subdivision nine of this section, and the
14 insurance policy limits obtained by the roofing contractor.

15 2. A roofing contractor shall not advertise or promise to pay or
16 rebate all or any portion of any insurance deductible as an inducement
17 to the sale of goods or services. As used in this section, a promise to
18 pay or rebate includes granting any allowance or offering any discount
19 against the fees to be charged or paying the insured or any person
20 directly or indirectly associated with the property any form of compen-
21 sation, gift, prize, bonus, coupon, credit, referral fee, or other item
22 of monetary value for any reason.

23 3. An owner who has entered into a written contract with a roofing
24 contractor to provide goods or services to be paid under a property and
25 casualty insurance policy may cancel the contract prior to midnight on
26 the third business day after the insured party has received written
27 notice from the insurer that all or any part of the claim or contract is
28 not a covered loss under the insurance policy. Cancellation occurs when
29 written notice of cancellation is given to the roofing contractor.
30 Notice of cancellation, if given by registered or certified mail, shall
31 be deemed given when deposited in a mailbox properly addressed and post-
32 age prepaid. Notice of cancellation shall be sufficient if it indicates
33 the intention of the owner not to be bound. Notwithstanding the forego-
34 ing, this subdivision shall not apply to a transaction in which the
35 owner has initiated the contact and the roofing contract is needed to
36 meet a bona fide emergency of the owner, and the owner furnishes the
37 roofing contractor with a separate dated and signed personal statement
38 in the owner's handwriting describing the situation requiring immediate
39 remedy and expressly acknowledging and waiving the right to cancel the
40 roofing contract within three business days. For the purposes of this
41 subdivision the term "owner" shall mean an owner or any representative
42 of an owner.

43 4. Within ten days after a contract referred to in subdivision three
44 of this section has been cancelled, the roofing contractor shall tender
45 to the owner any payments, partial payments, or deposits made and any
46 note or other evidence of indebtedness. If, however, the roofing
47 contractor has performed any emergency services, acknowledged by the
48 owner in writing to be necessary to prevent damage to the premises, the
49 roofing contractor shall be entitled to the reasonable value of such
50 services. Any provision in a contract referred to in this subdivision
51 that requires the payment of any fee for anything except emergency
52 services shall not be enforceable against the owner who has cancelled a
53 contract pursuant to this section.

54 5. A roofing contractor shall not require an owner to provide a depos-
55 it for the work and materials. A roofing contractor shall not mandate
56 that a particular form of payment be made in order to commence perform-

1 ance of the home improvement. A roofing contractor may invoice for
2 payment of the materials portion of the project upon delivery of the
3 materials to the owner of the property. The material cost must be
4 disclosed to the property owner in writing in advance of payment. A
5 roofing contractor may invoice the remainder of the project upon
6 successful completion of all contracted work.

7 6. A roofing contractor shall not abandon, or fail to perform, without
8 justification, any roofing contract, nor shall the roofing contractor
9 deviate from or disregard plans or specifications in any material
10 respect without the consent of the owner. A roofing contractor shall
11 abide by the applicable building code for the jurisdiction where the
12 residential property is located.

13 7. A roofing contractor shall not fail to pay for materials or
14 services rendered in connection with a roofing contract where the
15 contractor has received sufficient funds as payment for the particular
16 contract for which the services or material were rendered or purchased.

17 8. A roofing contractor shall not perform the reporting, adjusting, or
18 negotiating a claim on behalf of the owner and shall not receive compen-
19 sation for the referral to any entity that reports, adjusts or negoti-
20 ates a claim on behalf of an owner. Nothing herein prevents a roofing
21 contractor from communicating with an insurance company representative
22 and sharing his or her technical knowledge when the insurer initiates
23 the communication.

24 9. (a) A roofing contractor shall provide to the owner adequate proof
25 of insurance of the types and amounts set forth in this subdivision:

26 (1) A certificate of workers' compensation covering all employees of
27 the roofing contractor. If the roofing contractor does not have any
28 employees, then the contractor must provide a certificate of attestation
29 exemption (CE-200) form from the workers' compensation board; and

30 (2) Certificates of general liability and property damage insurance in
31 the amount of one hundred thousand dollars per person, three hundred
32 thousand dollars per occurrence, bodily injury; and fifty thousand
33 dollars for each occurrence and aggregate, property damage.

34 (b) The insurance requirements set forth in this subdivision shall
35 apply to roofing contracts performed in all political subdivisions that
36 do not contain any insurance requirements for such contracts.

37 § 3. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law.