

STATE OF NEW YORK

3897--A

2017-2018 Regular Sessions

IN SENATE

January 27, 2017

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

19 (b) any authorized employee or representative of the United States
20 government, the state of New York, or any political subdivision perform-
21 ing the repairing, remodeling, altering, converting, or modernizing of,
22 or adding to, government property.

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

LBD09369-03-7

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

3 § 771-b. Responsibilities of roofing contractors. 1. Every roofing
4 contractor shall enter into a written contract with an owner pursuant to
5 all of the provisions of section seven hundred seventy-one of this chap-
6 ter before engaging in the business of roofing, gutter, downspout or
7 siding services for such owner. In addition, the contract entered into
8 under this section shall contain the name of the insurer, type of insur-
9 ance coverage as required by subdivision nine of this section, and the
10 insurance policy limits obtained by the roofing contractor.

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

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

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

49 5. A roofing contractor shall not require an owner to provide a depos-
50 it of more than one-half of the agreed upon consideration for the work
51 and materials. A roofing contractor shall not mandate that a particular
52 form of payment be made in order to commence performance of the home
53 improvement.

54 6. A roofing contractor shall not abandon, or fail to perform, without
55 justification, any roofing contract, nor shall the roofing contractor
56 deviate from or disregard plans or specifications in any material

1 respect without the consent of the owner. A roofing contractor shall
2 abide by the applicable building code for the jurisdiction where the
3 residential property is located.

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

8 8. A roofing contractor shall not perform the reporting, adjusting, or
9 negotiating a claim on behalf of the owner and shall not receive compen-
10 sation for the referral to any entity that reports, adjusts or negoti-
11 ates a claim on behalf of an owner.

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

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

18 (2) Certificates of general liability and property damage insurance in
19 the amount of one hundred thousand dollars per person, three hundred
20 thousand dollars per occurrence, bodily injury; and fifty thousand
21 dollars for each occurrence and aggregate, property damage.

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

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