STATE OF NEW YORK

1405

2019-2020 Regular Sessions

IN SENATE

January 14, 2019

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

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:

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

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

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

(b) any authorized employee or representative of the United States government, the state of New York, or any political subdivision performing the repairing, remodeling, altering, converting, or modernizing of, or adding to, government property.

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

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

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

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

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

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

5. A roofing contractor shall not require an owner to provide a deposit for the work and materials. A roofing contractor shall not mandate that a particular form of payment be made in order to commence performance of the home improvement. A roofing contractor may invoice for payment of the materials portion of the project upon delivery of the materials to the owner of the property. The material cost must be disclosed to the property owner in writing in advance of payment. A roofing contractor may invoice the remainder of the project upon successful completion of all contracted work.

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

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

8. A roofing contractor shall not perform the reporting, adjusting, or negotiating a claim on behalf of the owner and shall not receive compensation for the referral to any entity that reports, adjusts or negotiates a claim on behalf of an owner. Nothing herein prevents a roofing contractor from communicating with an insurance company representative and sharing his or her technical knowledge when the insurer initiates the communication.

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

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

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

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

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