

# 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:

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.

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

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

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

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

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

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

48     5. A roofing contractor shall not require an owner to provide a depos-  
49 it for the work and materials. A roofing contractor shall not mandate  
50 that a particular form of payment be made in order to commence perform-  
51 ance of the home improvement. A roofing contractor may invoice for  
52 payment of the materials portion of the project upon delivery of the  
53 materials to the owner of the property. The material cost must be  
54 disclosed to the property owner in writing in advance of payment. A  
55 roofing contractor may invoice the remainder of the project upon  
56 successful completion of all contracted work.

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

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

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

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

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

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

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

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