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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Lang

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SUMMARY

- Requires any contract for more than \$750 of roofing services to be in writing and include specified documentation and information about the roofing contractor and the work to be done.
- Allows a consumer to cancel a contract within three business days after signing it or receiving written notice that an insurance claim will be fully or partly denied.
- Specifies procedures for notifying consumers about the right to cancel a contract and procedures for canceling such a contract.
- Requires a roofing contractor to have workers' compensation insurance and contractor's liability insurance.
- Prohibits roofing contractors from engaging in specified practices.
- Makes a contractor's failure to comply with the bill's requirements a deceptive act or practice in connection with a consumer transaction under Ohio's Consumer Sales Practices Act.
- Deems a contract under the bill to be in compliance with the Home Solicitation Sales Act.

DETAILED ANALYSIS

Roofing contractors

The bill establishes requirements for any contract for roofing services for more than \$750 and also regulates the practices of roofing contractors. The bill's requirements take effect 90 days after the bill's effective date.¹ For purposes of the bill, a "contractor" means a person

¹ Section 3.

(an individual or business entity) who is engaged in roofing services for a fee or who offers to engage in or solicits roofing services for a fee. “Roofing services” means the installation, renovation, repair, maintenance, alteration, or waterproofing of any roof, gutter, downspout, or siding product with regard to a residential premises.

The following persons are not subject to the bill:

- A residential or farm property owner, including the owner’s employees, who perform roofing services on the owner’s property;
- Any authorized government employee or representative who performs roofing services on government property;
- Any person who furnishes any fabricated or finished product, material, or article of merchandise that is not incorporated into or attached to real property by the consumer (a person who seeks roofing services) so as to become affixed to the property;
- A person who is acting as a contractor’s employee or as a subcontractor;
- A person who performs the construction of a residential building;
- A heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor licensed by the Ohio Construction Industry Licensing Board.

An “employee” of a contractor performs work in exchange for compensation that is reported as income from wages. A “subcontractor” is a person who undertakes, offers to undertake, agrees to perform, or is otherwise awarded a portion of an existing contract by a contractor but does not include a contractor’s employee.²

The bill states that the intent of the General Assembly in enacting it is to establish minimum standards for roofing contracts and to promote fair and honest practices in the roofing services business.³

Contracts for roofing services

Contents

The bill requires any contract for roofing services for more than \$750 to be in writing and to include all of the following documentation and information:

- The complete agreement between the consumer and the contractor, with a clear description of any other documents that are or will be incorporated into the contract;
- The contractor’s full legal name, business names, principal business address that is not a post office box, telephone number, and email address (if available);

² R.C. 4722.20, with conforming changes in R.C. 4722.01, 4722.03, 4722.06, 4722.07, and 4722.08.

³ Section 4.

- Either of the following:
 - A description of the contractor’s insurance coverage (see “**Insurance and obligations**,” below), including the insurance policy limits, the effective dates of applicable policies, and the name of the insurer;
 - A statement that a description of the contractor’s insurance coverage may be accessed at a specific website or otherwise provided to the consumer on request.
- An itemized description of the work to be done, the cost of labor, and the materials to be used;
- The total amount agreed to be paid for the work, including all change orders and work orders;
- An approximation of the cost expected to be borne by the consumer, if some or all of the cost will be paid by the consumer’s insurer;
- A provision allowing payment to be made by cash, check, or credit card, at the consumer’s discretion;
- The signatures of all parties to the contract, with a statement in substantially the following form, in immediate proximity to the consumer’s signature, in boldface type of at least ten-point font (see “**Cancellation**,” below):

You may cancel this contract not later than the third business day after entering into this contract. If this contract is related to an insurance claim, you may also cancel the contract not later than the third business day after you are notified that your insurer has denied all or any part of a claim or loss related to the contract. See the attached notice of cancellation form for an explanation of this right.

The contract must be accompanied by a fully completed form in duplicate, which must be attached to the contract but easily detachable, and must contain the following statement in boldface type of at least ten-point font:

NOTICE OF CANCELLATION

You may cancel this contract not later than the third business day after entering into the contract. If this contract is related to an insurance claim, you may also cancel the contract not later than the third business day after you are notified that your insurer has denied all or any part of your claim or loss. You may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of contractor) at (contractor’s principal business address) at any time before the application deadline. You may also send a cancellation notice through electronic mail if the

contractor has provided an electronic mail address. If you cancel, any payments you have made under the contract will be returned to you, less a reasonable charge for any services and materials provided, not later than the tenth business day after you send the cancellation notice to the contractor, and any security interest arising out of the transaction will be canceled. You must retain a copy of the cancellation notice.

I HEREBY CANCEL THIS TRANSACTION

(Date)

(Signature)

At the time a contract is signed, the bill requires the contractor to provide to the consumer a copy of the contract signed by both parties. No work may begin before the contract is signed and a copy is provided to the consumer. The contract and cancellation notice may be delivered and signed electronically in accordance with Ohio's Uniform Electronic Transactions Act, which specifies that an electronic record or signature satisfies legal requirements and is considered a written record.⁴

Cancellation

Under the bill, a consumer may cancel a contract for roofing services not later than the third business day after the consumer enters into the contract. Additionally, if a consumer has entered into a contract that is to be paid from the proceeds of a property or casualty insurance policy claim, the consumer may cancel the contract not later than the third business day after receiving written notice from the insurer that all or any part of the claim in question is not covered under the insurance policy.

A contract is canceled when the consumer gives written notice of the cancellation to the contractor at the principal business address or email address (if applicable) stated in the contract. Notice given by physical mail is effective on deposit into the U.S. mail, postage prepaid, and properly addressed to the contractor. Notice of cancellation is not required to be in any particular form, and the notice is sufficient if it indicates, by any form of written expression, the consumer's intention not to be bound by the contract. The consumer must retain a copy of the cancellation notice for a reasonable period of time.

Not later than the tenth business day after the contract is canceled, the contractor must tender to the consumer or the possessor of the residential premises any payments, partial

⁴ R.C. 4722.20(E) and 4722.21, by reference to R.C. Chapter 1306.

payments, or deposits made by the consumer and any note of indebtedness. If, however, the contractor has performed services or provided materials that the consumer has acknowledged in writing, the contractor is entitled to the reasonable value of those services or materials.⁵

Insurance and obligations

The bill requires a contractor to obtain both of the following in the name of the contractor:

- Workers' compensation insurance;
- Contractor's liability insurance, including completed operations coverage, in an amount of at least \$500,000.

The contractor is required to maintain the insurance in full force and effect while providing roofing services.

The bill also requires a contractor, for any contract for which the contractor has begun work during the past three years, to maintain a list of all subcontractors, including full legal name and principal business address, who have performed work under the contract.⁶

Prohibited practices

Under the bill, a contractor is prohibited from doing any of the following:

- Advertising, promising to pay, or rebating any portion of an insurance deductible as an inducement to the sale of goods or services, including granting an allowance or offering a discount against the fees to be charged or paying the consumer, or any person directly or indirectly associated with the property in question, any form of compensation;
- Inducing the sale of any goods or services by doing any of the following, unless the contractor and consumer sign a written addendum to the contract providing otherwise:
 - Offering or providing any upgraded work, material, or product not specified in the contract;
 - Granting any allowance or offering any discount against the fees to be charged;
 - Paying to the consumer or any other person directly or indirectly associated with the property in question, any form of compensation, including a gift, prize, bonus, coupon, credit, referral fee, trade-in or trade-in payment, advertising, or other fee or payment.
- Requiring a deposit of more than half the contract price;

⁵ R.C. 4722.22.

⁶ R.C. 4722.23(A).

- Abandoning or failing to perform, without justification, any ongoing contract or deviating from or disregarding plans or specifications in any material respect without the consumer's consent;
- Failing to credit the consumer for any payment the consumer has made to the contractor in connection with the contract;
- Making any material misrepresentation in the procurement of a contract or making any false promise likely to influence, persuade, or induce the procurement of a contract;
- Violating any applicable state or local building codes;
- Failing to pay for materials or services rendered in connection with operating as a contractor where the contractor has received sufficient funds as payment for the particular construction work, project, or operation for which the services or materials were rendered or purchased;
- Reporting, adjusting, or negotiating a claim on behalf of the consumer or receiving compensation for referring a claim to any person who reports, adjusts, or negotiates a claim on a consumer's behalf;
- Failing to possess any insurance required under state, federal, or local laws;
- Seeking or obtaining a power of attorney on a consumer's behalf;
- Representing, negotiating, obtaining, or attempting to obtain an assignment of claims, rights, benefits, or proceeds from a consumer;
- Offering or advertising to represent, negotiate, obtain, or attempt to obtain an assignment of claims, rights, benefits, or proceeds from a consumer.

A contractor may provide information or a professional opinion about a claim directly to a consumer.⁷

Deceptive acts or practices

A contract for roofing services under the bill is deemed to be in compliance with the requirements of a contract for a home solicitation sale under the Home Solicitation Sales Act. A home solicitation sales contract must be in writing and signed by the buyer and seller of the home and include a notice of cancellation for the buyer to cancel the contract. The bill also states that it does not limit or diminish the rights or remedies available under the act regarding home solicitation sales, including the right to cancel a contract.⁸

Additionally, a contractor's failure to comply with the bill constitutes a deceptive act or practice in connection with a consumer transaction under Ohio's Consumer Sales Practices Act

⁷ R.C. 4722.23(B) and (C).

⁸ R.C. 4722.25, by reference to R.C. 1345.21 to 1345.28, not in the bill.

(CSPA). Without limiting the scope of what is considered a prohibited practice, the CSPA lists examples of acts or practices that are considered unfair or deceptive. Generally, these prohibited practices involve a supplier misrepresenting the subject of a consumer transaction as having a particular feature or warranty or being of a particular standard.⁹ The Attorney General may bring action against a supplier who violates the CSPA, including an injunction or civil penalty, or a consumer may sue a supplier for a violation.¹⁰

HISTORY

Action	Date
Introduced	02-28-23

ANSB00771N-135/ts

⁹ R.C. 4722.24, by reference to R.C. 1345.02, not in the bill.

¹⁰ R.C. 1345.06, 1345.07, and 1345.09, not in the bill.