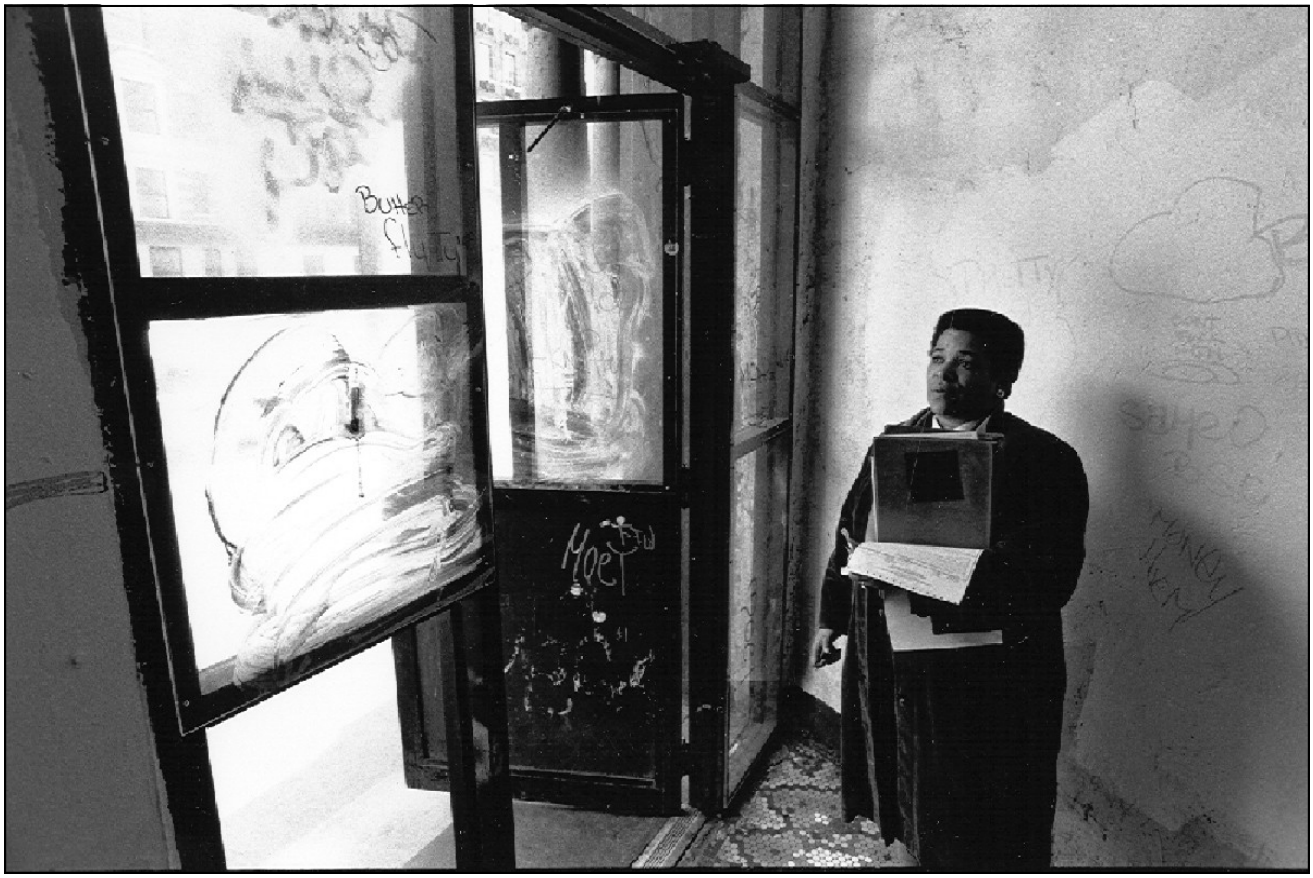
HOME IMPROVEMENT CONSUMER GUIDE

NYC Department of Consumer Affairs

BEFORE …



…AND AFTER

You need help repairing or renovating your home. For your own protection, there are a few things you should know before hiring a home improvement contractor (HIC).

What contractors do

First, what is a home improvement contractor?

New York City's Home Improvement Business Law defines a *contractor* as anyone who "owns, operates, maintains, conducts, controls or transacts a home improvement business" and "undertakes or offers to undertake or agrees to perform any home improvement or solicits any contract therefor," whether or not the contractor is a prime contractor or subcontractor.

In other words, if you receive an offer to build on, repair, or remodel your home or apartment for a fee, you're dealing with a contractor. Whether you own or rent, or if the dwelling is a co-op or a condo, this is the rule.

A contractor may be an individual, a company, a partnership, or a corporation.

New York City law requires that any person or business that solicits, canvasses, sells, performs, or obtains home improvement work where all costs (including labor, materials, etc.) come to more than $200 total must get an HIC license from the Department of Consumer Affairs.

Sales-persons

The City law describes a home improvement salesperson as anyone who "negotiates or offers to negotiate a home improvement contract" with a property owner, or "solicits or otherwise endeavors to procure in person a home improvement contract from an owner on behalf of a contractor, or for himself or herself should the salesperson be also the contractor."

Who needs licenses

If you are solicited to hire a contractor, the salesperson doing the soliciting needs a Home Improvement Salesperson license.

The contractor paying the salesperson must have a Home Improvement Contractor license.

If the salesperson is also the contractor, he or she needs both the Home Improvement Contractor and the Home Improvement Salesperson licenses.

[Certain home improvement professionals are licensed by other City or State departments, including electricians, plumbers, architects, engineers, and security alarm installers. For more information, call the Citizen Service Center at **3-1-1**.]

Contracts

What is a home improvement contract?

A home improvement contract is an agreement by a contractor to work on the residence of a homeowner or tenant.

The agreement means the contractor promises the homeowner or tenant to perform all labor and services and to furnish all materials specified under the terms of the contract.

A written contract protects you if your contractor goes out of business, or if you can show that the contractor did a bad job.

Sample contracts are available from the DCA Licensing Center, 42 Broadway, 5th floor, New York, NY 10004, or online at **www.nyc.gov/consumers**.

Why use a licensed contractor?

License-holders undergo a criminal history check, pass a written examination, pay a license fee, and post a bond or contribute to a Trust Fund that gives restitution to consumers.

There are thousands of licensed home improvement contractors in New York City. But many contractors work without a license or insurance. Don't take any chances with your home!

A license is no guarantee that a contractor will always engage in proper business conduct. But it gives Consumer Affairs the authority to act on your behalf.

Consumers are often able to get compensation because they hired a licensed contractor. A DCA Trust Fund, based on mandatory contributions from license-holders, makes these payments possible.

To find out if a contractor is licensed, call **3-1-1** or go to **www.nyc.gov/consumers**. Make sure you have the name and address of the contractor and/or remodeling business.

Photos courtesy of NYC Department of Housing Preservation and Development

DCA License* FAQ*s

Who needs a DCA license?

Home improvement **contractors** and **salespersons** soliciting or doing more than $200 of home improvement work in New York City are required to get a license from the Department of Consumer Affairs.

Can a licensed contractor do any home improvement work?

Some home improvement work—such as electrical or plumbing—is restricted to qualified tradespeople licensed by the Buildings Department under separate laws. A DCA home improvement license ***does not*** authorize a contractor to perform any work or engage in any business activity outside DCA jurisdiction. (See Page 5 for details.)

Do small jobs require a license?

A person who performs a job for less than $200 ***does not*** require a license.

What about licenses for home improvement workers who aren't contractors?

Salespersons working for a contractor require a Home Improvement Salesperson license. Other employees who work for a contractor ***do not*** require a DCA Home Improvement Contractor license, nor do licensed professionals such as plumbers, electricians, architects, engineers, and security alarm installers.

It is illegal in New York City to dry-scrape or sand painted surfaces. Scraping and sanding pose a danger of lead dust inhalation.

What the law covers

What kind of work does the City's Home Improvement Business Law regulate?

The law defines *home improvement* as the construction, repair, replacement, remodeling, alteration, conversion, rehabilitation, renovation, modernization, improvement, or addition to any land or building, or that part of the land or building used or designed to be used as a residence or dwelling place.

The *home* in *home improvement* refers to:

- condo units
- co-op units
- rented apartments
- private buildings with four or fewer residential units

This applies to contracts with homeowners who own single or multiple dwellings of up to four residences, as well as tenants, condominium unit holders, and cooperative shareholders who are making improvements to their apartments (regardless of the number of residences or dwelling units in the buildings where they reside).

Work on any of these counts as home improvement:

- awnings
- basements
- central heating/air conditioning
- central vacuum cleaning system
- communication systems
- driveways
- fences
- garages
- landscaping
- patios
- porches
- storm windows
- swimming pools
- terraces

Loans arranged through your contractor are prohibited

City law prohibits any home improvement contractor from acting as an agent for a lender or advertising, promoting, or arranging a home improvement loan. If your contractor has illegally offered to arrange a loan while negotiating a home improvement job, call **3-1-1**.

What the law* doesn't *cover

The activities below are ***not*** considered home improvement under the law:

- the **sale of goods or materials** by a seller who is not involved in the contracted work
- work performed on a residence owned or controlled by a **government agency**
- the construction of a new home/building or work done by a contractor **when the work is fulfilling a guarantee of completion** of a new building project
- the **painting or decorating** of a building, residence, home, or apartment, when not incidental or related to home improvement

Know your contractor

Before making a contract, ask about the contractor's background and professional qualifications. Don't sign until you're satisfied.

Ask the contractor:

- How long has she or he been in business, and at what addresses?

Know your contractor

- Does the contractor subcontract or use in-house staff?
- At what telephone numbers can you reach the contractor during an emergency?
- When will the contractor be on site?
- How many other jobs does the contractor take on at the same time?
- Does the contractor have **certifications** from remodeling and contracting industry organizations?

(Many experienced and reputable contractors do not join such organizations or seek such certifications. Decide for yourself what credentials you need to see when hiring a contractor.)

Check the track record of your home improvement contractor. Ask the contractor for references, including a list of previous clients. Call them to find out how the contractor handled their home improvement jobs.

To check on the complaint history of a home improvement contractor, call **3-1-1**.

Get estimates

One of the best ways to calculate the cost of your home improvement work is to get estimates from other contractors. A minimum of three estimates is strongly recommended.

Under the Home Improvement Business Law, a home improvement contractor must make a written estimate upon request and give the customer a copy. The contractor (or any salesperson, employee, or agent of any remodeler) must tell the consumer in advance that a written estimate of the cost of materials and labor of the home improvement work is available.

If a contractor charges for supplying a written estimate, you must be told beforehand how much the fee will be.

If you hire the contractor, the estimated fee should be itemized and included in the total contract price.

Use one checklist

When you secure bids or estimates, make sure that the contractors use the checklist of products and designs that is the same as, or similar to, yours. The more details and specificity — particularly brand names of products and materials — the more accurate the estimate.

Include the checklist in the contract, and use it later when you make a final inspection of the completed work.

Pay careful attention

You should leave nothing to chance. Specify in complete detail what is covered — and what is not covered — in the terms of your home improvement contract.

Every home improvement contract must be written and signed by all parties named. The contractor/salesperson must give the consumer a completed, legible copy of the contract at the time of signing and before any work is done.

The contract must be written in plain English and any other language principally used in any oral sales presentation. Contracts negotiated in Spanish must be written in Spanish.

Necessary provisions

Under the Home Improvement Business Law rules, your contract must include certain provisions to protect against abuses or fraudulent practices by contractors.

Add any provisions that will directly affect you if problems arise, including the checklist that formed the basis of the estimates you solicited.

Make sure you include the following provisions:

- The contractor's and salesperson's names, addresses, telephone numbers, and DCA license numbers.
- The date the parties signed the contract.
- A payment schedule. If you make progress payments during the course of the work, the contract should show the amount of each payment, and identify specific work that will trigger the payments.

  New York State law requires the contractor to deposit progress payments into an escrow account.
- A contract provision stating that the contractor must show the consumer a valid Certificate of Workers' Compensation Insurance before beginning the work.
- Any advertised claims, including clearly stated charges, guarantees, or warranties.
- The approximate dates when work will begin and be substantially completed. Include a list of any unforeseen events that would move the completion date, and state whether the parties agree that a definite completion date is "of the essence."
- A complete description of the construction or remodeling work to be done on the premises, a listing of specific materials to be used, and the amount of money to be paid for work and materials.
- A "proof of payment" clause to shield you from any liability if the contractor fails to pay subcontractors or supply vendors.
- A "lien waiver" clause. With this, you can withhold final payment until the contractor submits proof of payment to all subcontractors and vendors. This knowledge helps prevent unpaid subcontractors and vendors from putting liens on your home.

Necessary provisions

- A requirement that the contractor clean the premises after he finishes his work.
- A requirement that the contractor will comply with all applicable laws, regulations, and codes. A DCA-licensed contractor must file architectural plans with the Department of Buildings and have signed permits before beginning home improvement work.
- A "Cancellation" clause permitting you to cancel within 72 hours of signing the contract.

What the contractor MUST tell you

THE CONTRACTOR MUST include in boldface type in the printed contract and in close proximity to the space for the buyer's signature, a statement reading:

> **"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction."**

THE CONTRACTOR MUST notify you that you have 72 hours to cancel a remodeling contract after signing. This is important. This three-day "cooling off" time must be mentioned in the contract, verbally to you, and in a separate "Notice of Cancellation" form.

THE CONTRACTOR MUST furnish the consumer two copies of a separate and completely filled out "Notice of Cancellation" form at the time the contract is signed.

This form must be attached to the contract and contain in boldface type **the contractor's name and address, the date of the transaction, and the last date on which the consumer may give notice of cancellation.** (Be sure to confirm your cancellation in writing and send it by certified mail.) It also includes the rights and duties of the consumer and contractor at cancellation.

THE CONTRACTOR MUST verbally inform the consumer about his or her right to cancel at the time of contract signing.

Canceling a contract

The contractor must honor any valid notice of cancellation. Within ten business days after receipt of notice, THE CONTRACTOR MUST:

- Refund all payments made under the contract.
- Cancel and return any negotiable instrument executed by the consumer in connection with the contract.
- Terminate any security interest.
- Notify the consumer whether the contractor intends to repossess or abandon any shipped or delivered materials.

Changing plans? Put it in writing

Changes or modifications to the original home improvement work sometimes become necessary while the work is underway. If this situation should arise, a consumer should be sure to put all work and financial changes in writing.

Have this document signed by both the contractor and consumer. Never rely on verbal agreements.

Taking charge

Are you prepared to take control, and keep control, of the work that you are paying for? Home improvement and remodeling jobs can be overwhelming. Follow these steps:

- If you cannot be on your premises at all times, arrange for someone you trust to be home while the work is in progress. The supervisor should be sure the materials and the fixtures are examined before they are installed, and check the work at each step.
- Point out shoddy work to the contractor immediately and see that it's corrected before the work proceeds.
- When remodeling, never pay the bulk of your total project price up front. Try to reserve the majority of the balance due upon completion of the job and upon your approval.
- The more money you hold back, the more power you'll possess in your dealings with the contractor.

Taking charge

- If you can pay with a credit card, you'll be afforded additional protection under the Federal Fair Credit Act if problems arise.
- Take time to inspect all the work, and do it when the contractor is not looking over your shoulder awaiting the final check.
- Look at every detail of the project when you are comfortable and relaxed. During your inspection, use the checklist you prepared when you first solicited estimates.
- Remember, once you hand over the check, you may never see the contractor again.
- Make sure any defects you find are fixed before you hand over final payment. **Do not sign a Completion Certificate until all work has been completed to your satisfaction.**

Filing complaints with Consumer Affairs

If you are dissatisfied with a remodeling job and the contractor is unwilling to correct problems, file a complaint with the DCA. Visit **www.nyc.gov/consumers** to use an electronic form, or call **3-1-1.**

Your complaint should include a complete description of the problem, and the name, address, telephone number, and license number of the contractor. Be sure to furnish the agency with copies (never send originals) of relevant documents, including:

- contracts
- photographs of the work performed
- guarantees
- warranties
- advertisements
- cancelled checks (both front and back) showing proof of payment

When wrongs can't be put right

DCA will investigate your complaint and try to mediate your dispute with the contractor. In many cases a telephone call from our office is all that is necessary to settle the matter.

When voluntary resolution cannot be accomplished, an administrative hearing will be held and an administrative law judge will hear the case.

If the hearing results in an administrative order compelling the contractor to make restitution, the contractor will have to comply with the judgment.

If the contractor fails to meet this obligation, DCA will move to revoke his or her license and seek restitution on your behalf from the former licensee's bond, or by invading the Home Improvement Contractor Trust Fund.

HIC Trust Fund

DCA's HIC Trust Fund was established as a restitution fund for consumers who have used a licensed contractor, but found the contractor did shoddy or substandard work and subsequently went out of business.

DCA can reimburse aggrieved homeowners from the HIC Trust Fund but only if: the homeowner hired and paid a licensed contractor; the licensed contractor contributed to the Trust Fund during the relevant license period; an administrative law judge determines that the contractor violated the law causing the homeowner to suffer monetary damages; and the licensed contractor cannot be located or made to pay.

Contractors who are applying for a license must pay $200 into the Trust Fund or post a bond. An additional payment of $200 dollars is required every two years when the license is renewed. By paying into the Trust Fund, contractors are saved the expense of obtaining a bond. By making sure that they are properly licensed, contractors have greater recourse to defend themselves from false claims or when a client refuses to pay up when the job is done.

The New York City Department of Consumer Affairs empowers consumers and businesses to ensure a fair and vibrant marketplace.

If you have a consumer-related complaint, go to **www.nyc.gov/consumers**, contact **311** (212-NEW-YORK outside NYC), or write:

New York City Department of Consumer Affairs
42 Broadway
New York, NY
10004-1617

Consumer Affairs

Bill de Blasio
Mayor

Lorelei Salas
Commissioner

If you have a consumer-related complaint, call DCA at 311 or (212) NEW-YORK.

New York City employees are not allowed to ask for or accept anything of value, such as money, gifts, or tips for doing their job. To report corruption, contact the New York City Department of Investigation at www.nyc.gov/doi.

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