

ABOUT US

The Erie County Division of Consumer Protection was created to ensure that Erie County's residents have access to education, information, and resources regarding consumer protection. The office will investigate and mediate consumer complaints through voluntary mediation and educate Erie County consumers on the policies, best practices and their rights and responsibilities as consumers.



The purpose of this brochure is to provide homeowners with information about some of the laws, agencies and organizations that may be useful to them before entering home improvement contracts or determining potential next steps if they are dissatisfied with the outcome of a project. Other provisions of law and court interpretations of these statutes may be relevant to particular contracts and situations. Due to the variety of specific situations and state and local laws and regulations that may have relevance to a home improvement project, consulting an attorney regarding your issue may be necessary. Use this brochure only as a helpful "starting place" and not as a final interpretation of the law. It is provided for informational purposes only.

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ERIE COUNTY

DIVISION OF CONSUMER PROTECTION



CONSUMERS' RIGHTS IN HOME IMPROVEMENT PROJECTS

HOME IMPROVEMENT CONTRACTS

New York State **requires** the use of a signed contract for all home improvement projects costing over \$500.

A consumer must receive a copy of the contract signed by the contractor. Certain elements, designed to protect and inform consumers, must be included in these contracts:

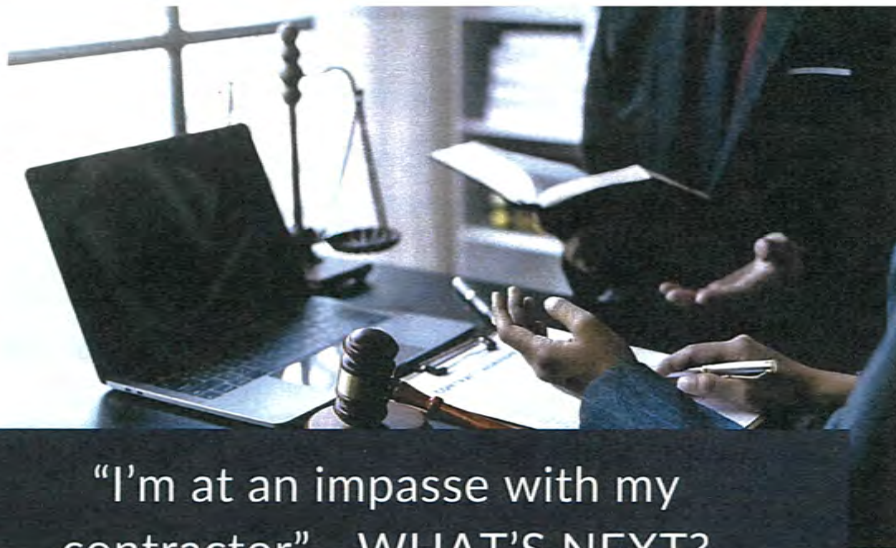
- The name, address, phone number and, if applicable, license number of the contractor (**Not all municipalities license contractors*).
- Estimated start and end dates for the project, and if they're "of the essence" – meaning meeting these dates is essential to fulfilling the contract.
- As specific information as possible about work to be performed and materials to be used. It also needs to clearly state the agreed-upon price!
- If your contract includes progress payments, their schedule and what work is tied to each payment.
- Your right to cancel the contract until midnight of the third business day after you sign, including notice sent by mail within this timeframe (You have this right whether it's stated or not!). *Note: This may not apply to emergency work, but only if you explicitly sign away this right.*
- Information about the contractor's insurance policies (*We'll explore this topic later in the pamphlet*).

- A warning about contractors' ability to place a mechanic's lien on your property if they are not paid. This can make it difficult to sell your property or affect your borrowing ability.
 - Even companies you did not directly contract with - for example, a materials supplier who was stiffed by your contractor - have the right to file a mechanic's lien against your property!
- Specific to roofing jobs – a roofing contractor cannot charge you a deposit. He can bill you for the materials once they are delivered.

For more detail on all of the legal requirements for home improvement contracts, visit our website at Erie.gov/homecontracts.

While not required by law, structuring your contract to minimize up-front payments and tie them to specific project milestones and material purchases may help minimize your risks.

In most circumstances, a contractor needs to hold payments you make in a separate account and tell you what bank has the account. If escrow is not used, the contractor must post a bond, contract of indemnity or irrevocable letter of credit with the owner guaranteeing the return or proper application of such payments to the purposes of the contract.



"I'm at an impasse with my contractor" - WHAT'S NEXT?

It is important that you attempt to resolve your complaint with the company before involving a third party.

- Voluntary mediation programs offered by entities like the Erie County Division of Consumer Protection. Consumer Protection complaints can be submitted through our website at [Erie.gov/CPcomplaint](https://erie.gov/CPcomplaint)

**Complaints already the subject of a lawsuit or other legal action cannot be handled by the DCP.*

- Small Claims Court – Visit the NYS Courts website at <https://www.nycourts.gov/courthelp/smallclaims/>
- Feel you are owed more than the small claims limit? You may need to file a lawsuit in NYS Supreme Court or County Court. The Erie County Bar Association offers referrals and the opportunity to schedule a \$20, 30-minute consultation.

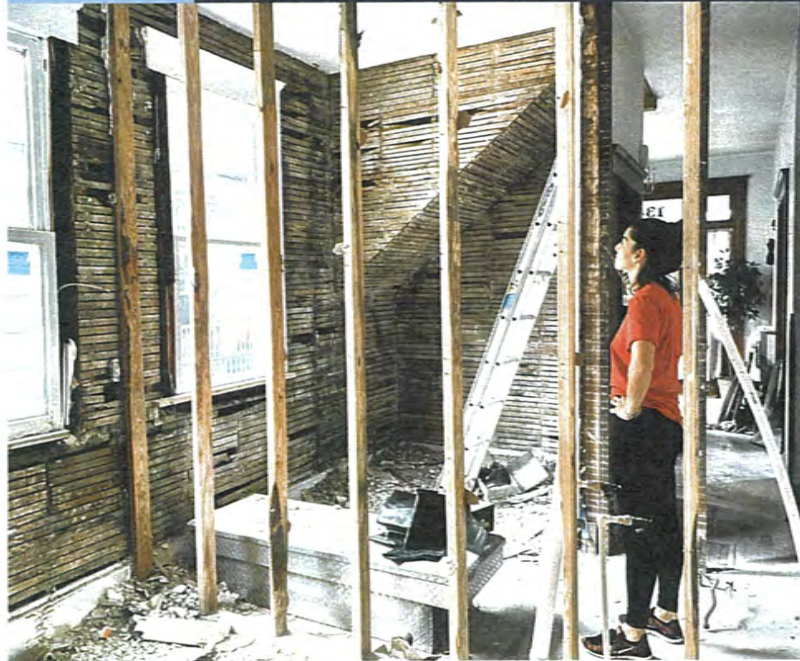
Visit their website at

<https://eriebar.org/lawyerreferralandinformationsservice/>

DOING YOUR DUE DILIGENCE

- Check for complaints against a business online. Get the owner's name and check for complaints against them, as well. Good sources include the Better Business Bureau, Yelp, Facebook and Nextdoor.
- Review how established the business seems to be. Do they have a website or pages on Social Media? Do they share contact information including an address on that page?
- Can the business provide you with references from other satisfied customers?
- Does the business exist? If a contractor is using a name other than their own legal name ("Joe's Five Star Plumbing" vs. "Joe Smith, Plumber"), a "doing-business-as" certificate should be on file, check with the County Clerk's Office (<https://ecclerk.erie.gov/BrowserView/>). If they claim to be an incorporated business ("Inc." or "LLC" in the name), check the NYS Department of State Entity Database (<https://apps.dos.ny.gov/publicInquiry/>).
- Does your town or city require permits for the type of project they will be working on? Does it register or license contractors? Contact your municipal Building Department or Code Enforcement Office to check. Remember, property owners have the ultimate responsibility to make sure projects are properly permitted! Your municipality may be able to provide some guidance, but you may wish to also check relevant portions of the NYS Building Code for your project (<https://dos.ny.gov/building-standards-and-codes>)

KNOW YOUR RIGHTS & RESPONSIBILITIES WHEN HIRING SOMEONE TO WORK ON YOUR HOME



RESEARCHING CONTRACTORS



CONTRACT REQUIREMENTS



CRIMINAL OR CIVIL COURT



INSURANCE

OTHER TOPICS

Will insurance help me?

- If a project goes wrong, contact your insurer. Be aware that some homeowner's policies exclude "poor workmanship". Policies will vary on whether they cover damage caused by mistakes, redoing faulty or poorly done work, or completing a partially-done job.
- Contractors' general liability or personal injury insurance may cover damage or injuries caused by accidents on your property – e.g., they are backing into your driveway and hit your car, a worker falls off your roof and is hurt (This is another reason getting proper permits is important – many municipalities will want proof of coverage before issuing a permit).

Involving Law Enforcement

- Contact local law enforcement if you feel you have been lied to or taken advantage of. Law enforcement will look at many factors: Was the contractor not truthful about his identity? Did he take money without ever doing any work? Are they aware of a pattern of behavior with this specific contractor?
- In some cases, law enforcement may determine that the actions involved, while wrong, are not a criminal matter. For example, fraud is a crime based around an "intent to deceive," and intentions are difficult to prove! However, a police report may be necessary documentation in future steps even if there is a determination that the actions were not criminal.