Roofers Face Flood of New State Laws

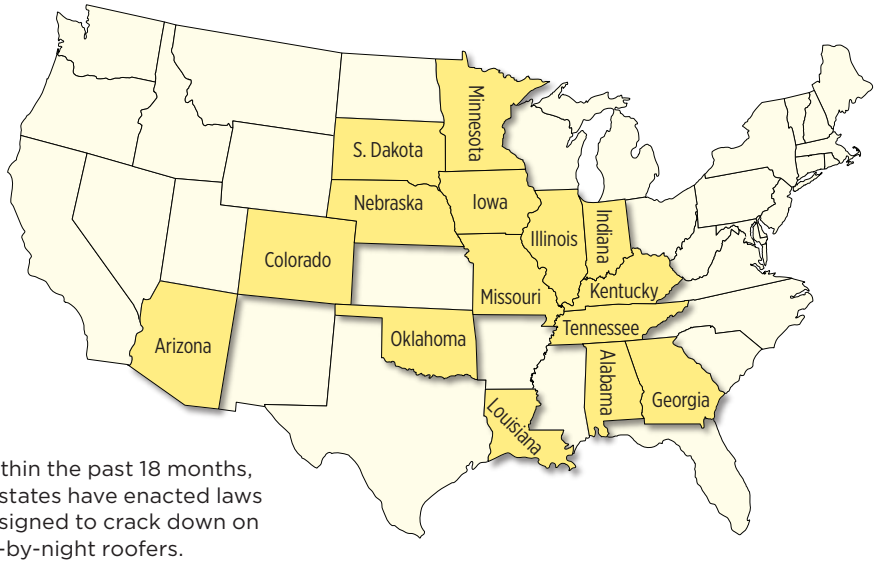
Roofing contractors in more than a dozen states are adjusting their business practices to comply with recently enacted laws intended to protect consumers from unscrupulous "storm-chasers." Alabama, Arizona, Colorado, Georgia, Indiana, Illinois, Iowa, Kentucky, Oklahoma, Louisiana, Minnesota, Missouri, Nebraska, South Dakota, and Tennessee have all enacted such laws within the past year and a half.

The new laws vary somewhat in detail, but most include one or more of the following provisions:

- A requirement that roofers provide written estimates of work to be performed and obtain a signed contract before starting (in several states, including Louisiana and Illinois, the laws cover all remodeling and home-improvement contracting, not just roofing).
- A specified "grace period" — typically 72 hours from when the contract is signed — during which consumers can cancel a roofing contract without penalty.
- An additional grace period — again, most often 72 hours — that begins if and when the homeowner's insurance carrier denies a claim that was to have covered the work in question.
- A requirement that contractors refund any deposit or other payment made by the homeowner if a project is cancelled under either of the 72-hour provisions above.
- A prohibition against waiving or rebating the deductible portion of the homeowner's insurance.

Who benefits? Some contractors support the new laws without reservation. "Conscientious roofers think it's a good thing," says Frederick, Colo., roofer Scott Kawulok. "The Colorado Roofer's Association has been behind it from the beginning."

But others aren't so sure. Shreveport, La., restoration contractor George "Geep" Moore says he understands the reasoning behind his state's law, which took effect



Within the past 18 months, 15 states have enacted laws designed to crack down on fly-by-night roofers.

Future shock. Under a building-code change that took effect on January 1, Boulder County, Colo., builders are required to either: 1) install PV or solar-thermal panels in all detached single-family homes, or 2) upgrade the plumbing or wiring to permit their installation in the future. The revised code also requires a Level 2 240-volt electric-vehicle charging outlet, or wiring or conduit to allow one to be installed later.

Lumber prices on the rise. In an encouraging — if not entirely welcome — indication that the building industry is gathering steam, framing-lumber prices have climbed sharply in recent months, with the commodity price per thousand board feet of softwood framing lumber hovering near the $400 mark, compared with about $280 a year ago. Industry experts expect the upward trend to moderate as large Canadian mills shuttered during the housing bust reopen and take up the slack.

Containerized homes. A Los Angeles–based startup called Connect Homes has added a new wrinkle to the recent architectural fad of converting used shipping containers into housing: The company is designing high-end homes that fit snugly *inside* a standard 8-foot-by-40-foot shipping container. The canned modules can then be shipped anywhere in the world for as little as $5,000, the company says.

in August 2012: "After a storm, you'll have contractors showing up who will tell the homeowner, 'Yes, that damage will be covered by insurance, and we'll waive the deductible if you sign right now.' Then after they're gone and the claim is denied, the homeowner is out the cost of the new roof." But he's exasperated by the law's complexity and worries that insurance companies, not homeowners, may stand to reap most of its benefits. "We're trying to protect ourselves by rewording our contracts," he says, "but there's still a lot of uncertainty about it."

Denver attorney Daniel Glasser — who recently wrote a two-part feature about Colorado's new roofing law for *Cleaning & Restoration* magazine (restorationindustry.org) — believes that contractors are right to be concerned. For example, he notes that the mandated 72-hour contract-cancellation period could open the door to widespread "poaching" by unscrupulous contractors looking to undercut others on price. (It's technically illegal for a contractor to knowingly interfere with an existing agreement, but such rules are unlikely to matter to fly-by-night operators.)

The law also complicates cash flow by requiring contractors to "hold in trust any payment from the property owner until the roofing contractor has delivered roofing materials ... or has performed a majority of the roofing work on the residential property." To be sure that they're in compliance, Glasser says, contractors should consider keeping initial payments from residential projects in a separate account, and transfer them to an operating account only when a project is substantially complete. — *Jon Vara*

NAHB Petitions OSHA to Reopen Construction Fall-Protection Standard

In December, OSHA announced a three-month extension of its temporary enforcement guidelines for residential fall protection. That marked the fourth consecutive short-term extension of the guidelines since the new fall-protection rule — generally referred to as Subpart M — was fully implemented in September 2011. The guidelines are now set to expire on March 15. (Builders who have grown comfortable with those repeated extensions should remember that the fall-protection rules themselves are still very much in effect — the temporary enforcement guidelines simply hold out the possibility of mitigated penalties for builders who have made good-faith efforts to comply.)

This latest extension will probably benefit some builders who are still struggling to comply with the rule. But the evident need for yet another extension also lends credence to what critics of Subpart M have been saying all along: that the rule is too complicated and difficult to use effectively on the job site.

Layered protection and a 15-foot limit. Fortunately, there's reason to hope that an easier-to-follow version of Subpart M may be in the offing. On December 7 — at about the same time that OSHA was announcing the latest enforcement-guideline extension — NAHB delivered a 40-page petition to the agency, asking it to reopen and amend the standard itself. In an accompanying letter, the association urged OSHA to adopt "a layered, risk-based approach to fall protection."

Among other matters, the NAHB proposal calls for a reexamination of the working height above a lower level that triggers the need for fall protection. NAHB safety expert Rob Matuga suggests that the 6-foot height limit in the current federal rule hasn't worked very well. "We know from talking to people that it's difficult to get them to take the 6-foot distance seriously. They just don't see it as much of a hazard," he says.

Instead, the NAHB proposal calls for a trigger height of 15 feet for certain tasks. That figure, Matuga notes, was not chosen arbitrarily: Residential builders in California — where a state-administered OSHA standard is in effect — already use a 15-foot limit, as does OSHA's current federal rule for steel erection.

Come together. Sometime this winter, according to Matuga, NAHB and OSHA will likely meet to discuss the proposal. And while any actual changes to the rule probably won't be finalized for years — if they happen at all — the two organizations have successfully teamed up on the same issue in the past. (NAHB, in fact, spoke out in favor of scrapping the old interim fall-protection rule in favor of Subpart M.)

"If we can make the standard easier to comply with, that will be better for everyone," Matuga says. — *J.V.*