

By: Davis of Harris

H.B. No. 1854

A BILL TO BE ENTITLED

AN ACT

relating to the registration of roofing contractors; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 8, Occupations Code, is amended by adding Subchapter 1306 to read as follows:

CHAPTER 1306. ROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1306.001. DEFINITIONS. In this chapter:

(1) "Certificate" means a certificate of registration issued under this chapter.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Roofing contracting" means performing or offering to perform the installation, construction, maintenance, service, repair, alteration, or modification of a roofing product or equipment in roofs.

(5) "Roofing contractor" means a person who performs roofing contracting for compensation.

Sec. 1306.002. EXEMPTIONS. (a) This chapter does not apply to a person while the person performs roofing contracting:

(1) on new residential construction of a single-family

1 home, duplex, triplex, or fourplex;

2 (2) under the direct supervision of an individual
3 certificate holder;

4 (3) on property owned by the person and used as the
5 person's residence; or

6 (4) on a dwelling owned by a member of the person's
7 family.

8 (b) This chapter does not apply to a person who holds an
9 occupational license or other analogous authority issued by this
10 state and who performs roofing contracting work incidental to the
11 performance of work within the course and scope of the person's
12 license or other authority.

13 (c) This chapter does not apply to roofing contracting
14 performed for compensation that does not exceed a total amount of
15 \$750.

16 [Sections 1306.003-1306.050 reserved for expansion]

17 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

18 Sec. 1306.051. ENFORCEMENT; RULES. (a) The commission
19 shall enforce this chapter and may adopt rules relating to
20 enforcement requirements.

21 (b) The commission may contract with another state agency or
22 with a political subdivision of this state for the enforcement of
23 this chapter and the rules adopted by the commission under this
24 chapter.

25 Sec. 1306.052. FEES. The commission by rule shall set the
26 fees assessed to implement this chapter, including application
27 fees, registration fees, and renewal fees. The commission shall

1 set the fees in amounts reasonable and necessary to cover the costs
2 of implementing this chapter.

3 [Sections 1306.053-1306.100 reserved for expansion]

4 SUBCHAPTER C. REGISTRATION REQUIREMENTS

5 Sec. 1306.101. CERTIFICATE REQUIRED. (a) Unless exempted
6 from registration under Section 1306.002, a person may not perform
7 roofing contracting unless the person holds a certificate issued
8 under this chapter.

9 (b) A certificate is valid throughout this state, and the
10 holder is not required to hold a municipal license or certificate to
11 practice roofing contracting in any municipality in this state.

12 Sec. 1306.102. APPLICATION; ELIGIBILITY. (a) A
13 certificate application must be made on a form prescribed by the
14 commission.

15 (b) To be eligible for a certificate, an individual
16 applicant must:

17 (1) be at least 18 years of age; and

18 (2) meet any experience requirements prescribed by the
19 commission by rule.

20 (c) An individual's application must be accompanied by:

21 (1) proof of age of the applicant;

22 (2) a statement of the applicant's practical
23 experience, including the number of years of experience in roofing;

24 (3) the applicant's:

25 (A) state photo identification number, if any;

26 (B) sales tax number;

27 (C) Internal Revenue Service employer

1 identification number;

2 (D) telephone number and facsimile number;

3 (E) e-mail address; and

4 (F) mailing address and, if different from the
5 mailing address, the address where the applicant's business is
6 physically located; and

7 (4) the application fee.

8 (d) A business entity may be registered if the business
9 entity is owned by or employs an individual certificate holder who
10 will actively engage in roofing contracting on behalf of the
11 applicant. An application under this subsection must be
12 accompanied by:

13 (1) the applicant's:

14 (A) state identification number, if any;

15 (B) sales tax number;

16 (C) Internal Revenue Service employer
17 identification number;

18 (D) telephone number and facsimile number;

19 (E) e-mail address; and

20 (F) mailing address and, if different from the
21 mailing address, the address where the applicant's business is
22 physically located;

23 (2) the form of the business entity and name of each
24 owner of the applicant;

25 (3) the name, address, e-mail address, telephone
26 number, and facsimile number of the individual certificate holder
27 who owns or is employed by the business entity; and

1 (4) the application fee.

2 (e) The business name used by an applicant under this
3 section must be the same on all documents included with the
4 application.

5 (f) Each applicant must submit the evidence of insurance
6 coverage required by this chapter.

7 Sec. 1306.103. INSURANCE REQUIREMENTS. (a) A certificate
8 holder shall maintain comprehensive general liability insurance
9 coverage as provided by this section.

10 (b) An applicant for a certificate must provide as part of
11 the application:

12 (1) a certificate of insurance or other documentary
13 evidence of a general liability insurance policy issued by a
14 property and casualty insurer authorized by the Texas Department of
15 Insurance to engage in the business of insurance in this state,
16 countersigned by an insurance agent licensed in this state; or

17 (2) a certificate of insurance for surplus lines
18 coverage obtained under Chapter 981, Insurance Code, through a
19 licensed surplus lines agent resident in this state.

20 (c) The general liability insurance policy must be
21 conditioned to pay on behalf of the certificate holder damages that
22 the certificate holder becomes legally obligated to pay because of
23 bodily injury, property damage, or personal injury caused by an
24 event involving the principal, or an officer, agent, or employee of
25 the principal, in the conduct of any activity or service for which
26 the certificate holder is registered under this chapter.

27 (d) The insurance policy must:

1 (1) include products liability and completed
2 operations coverage; and

3 (2) contain minimum limits of:

4 (A) \$500,000 for each occurrence for death or
5 bodily injury; and

6 (B) \$500,000 for each occurrence for property
7 damage.

8 (e) On renewal of the certificate, each certificate holder
9 shall provide to the department a document issued by the person's
10 insurer that states the following:

11 (1) the name of the insurer;

12 (2) the policy number;

13 (3) the limits of coverage under the policy;

14 (4) the name of each insured under the policy;

15 (5) the policy term;

16 (6) any cancellation clause applicable to the
17 coverage; and

18 (7) a signature from the insurer or an agent for that
19 insurer.

20 (f) An insurance policy used to satisfy the requirements of
21 this section must provide that the insurer must send notice to the
22 department in the manner prescribed by the commission not later
23 than the 10th day after the date on which:

24 (1) the insurance policy is canceled before the policy
25 expiration date; or

26 (2) the minimum coverage limits required by this
27 section are reduced.

1 Sec. 1306.104. CERTIFICATE ISSUANCE; USE OF CERTIFICATE
2 NUMBER. (a) The commission shall issue a certificate to a person
3 who qualifies for a certificate under this chapter.

4 (b) Each roofing contractor who holds a certificate under
5 this chapter shall display the certificate number on each contract,
6 letterhead, advertisement, or motor vehicle used by the certificate
7 holder in providing roofing contracting services in this state.

8 Sec. 1306.105. TERM. A certificate is valid for one year
9 from the date of issuance.

10 Sec. 1306.106. RENEWAL; CONTINUING EDUCATION. (a) To
11 renew a certificate, a certificate holder must complete at least
12 eight hours of continuing education annually.

13 (b) The commission shall recognize, prepare, or administer
14 continuing education programs for certificate holders.

15 [Sections 1306.107-1306.150 reserved for expansion]

16 SUBCHAPTER D. ENFORCEMENT

17 Sec. 1306.151. DENIAL, SUSPENSION, OR REVOCATION OF
18 CERTIFICATE. (a) A violation of this chapter, a rule adopted under
19 this chapter, or an order issued under this chapter is a ground for
20 the denial, suspension, or revocation of a certificate and a ground
21 for the imposition of an administrative penalty under Subchapter F,
22 Chapter 51.

23 (b) A conviction of a crime an essential element of which is
24 misstatement, fraud, or dishonesty, or of a felony, is a ground for
25 denial, suspension, or revocation of a certificate.

26 (c) A proceeding for the denial, suspension, or revocation
27 of a certificate or an appeal from that proceeding is subject to

1 Chapter 2001, Government Code.

2 (d) The department may reissue a certificate that has been
3 revoked under this section if the certificate holder applies in
4 writing to the commission and shows good cause to justify
5 reissuance.

6 Sec. 1306.152. ENFORCEMENT OF CONTRACTS. (a) A person
7 required to register under this chapter who performs roofing
8 contracting without holding a certificate issued under this chapter
9 may not collect a fee or otherwise enforce a contract for the
10 roofing service performed. To enforce a contract for the
11 performance of roofing contracting, the person performing the
12 service must present proof that the person held a certificate at the
13 time the contract was signed and the work was performed.

14 (b) The commission shall adopt rules relating to the manner
15 in which proof may be presented under this section.

16 Sec. 1306.153. OFFENSE; CRIMINAL PENALTY. (a) A person
17 commits an offense if the person engages in roofing contracting
18 without holding a certificate required under this chapter.

19 (b) An offense under this section is a Class C misdemeanor.

20 SECTION 2. The Texas Commission of Licensing and Regulation
21 shall adopt rules as required by Chapter 1306, Occupations Code, as
22 added by this Act, not later than January 1, 2010.

23 SECTION 3. Notwithstanding Section 1306.101, Occupations
24 Code, as added by this Act, a person is not required to hold a
25 certificate of registration to engage in roofing contracting for
26 compensation in this state until March 1, 2010.

27 SECTION 4. (a) Except as provided by Subsection (b) of this

1 section, this Act takes effect September 1, 2009.

2 (b) Section 1306.101, Occupations Code, and Subchapter D,
3 Chapter 106, Occupations Code, take effect March 1, 2010.