

By: Williams

S.B. No. 1274

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the registration of roofing contractors; providing
3 penalties.

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

5 SECTION 1. Title 8, Occupations Code, is amended by adding
6 Chapter 1307 to read as follows:

7 CHAPTER 1307. ROOFING CONTRACTORS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 1307.001. SHORT TITLE. This chapter may be cited as
10 the Roofing Contractor Registration Act.

11 Sec. 1307.002. DEFINITIONS. In this chapter:

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

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

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

18 (4) "Executive director" means the executive director
19 of the department.

20 (5) "Roofing contractor" means a person who performs
21 roofing services for compensation.

22 (6) "Roofing services" means performing or offering to
23 perform the installation, construction, maintenance, service,
24 repair, alteration, or modification of a roofing product or

1 equipment in roofs.

2 Sec. 1307.003. EXEMPTIONS. This chapter does not apply to:

3 (1) an actual owner of residential or farm property
4 who physically performs or has employees perform roofing services
5 on the owner's dwelling or on another structure located on the
6 person's residential or farm property;

7 (2) an authorized employee or representative of the
8 United States government, this state, or any county, municipality,
9 or other political subdivision of this state;

10 (3) a person who furnishes any fabricated or finished
11 product, material, or article of merchandise that is not
12 incorporated into or attached to real property by the person; or

13 (4) an employee of a roofing contractor who holds a
14 certificate issued under this chapter.

15 Sec. 1307.004. CONSTRUCTION OF CHAPTER. This chapter shall
16 be construed to be in addition to any required licensure of persons
17 in this state, and this chapter may not be construed as conflicting
18 with or affecting the authority of any state or local agency, board,
19 or department that administers or enforces any law or ordinance or
20 that establishes, administers, or enforces a policy, rule,
21 qualification, or standard for a trade or profession.

22 [Sections 1307.005-1307.050 reserved for expansion]

23 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND COMMISSION

24 Sec. 1307.051. GENERAL POWERS AND DUTIES. The department,
25 executive director, or commission, as appropriate, may take action
26 as necessary to administer and enforce this chapter.

27 Sec. 1307.052. RULES. The commission shall adopt rules for

1 registering roofing contractors and standards of conduct for
2 registrants under this chapter.

3 Sec. 1307.053. FEES. The commission shall establish and
4 collect reasonable and necessary fees in amounts sufficient to
5 cover the costs of administering this chapter.

6 Sec. 1307.054. CRIMINAL HISTORY BACKGROUND CHECK. The
7 department may obtain criminal history record information under
8 Subchapter F, Chapter 411, Government Code, for an applicant for a
9 certificate under this chapter.

10 Sec. 1307.055. VERIFICATION. On request, the department
11 shall verify a roofing contractor registration number to a city,
12 county, or other government enforcement official. The department
13 shall establish a verification system for certificates maintained
14 by the department.

15 [Sections 1307.056-1307.100 reserved for expansion]

16 SUBCHAPTER C. REGISTRATION REQUIREMENTS

17 Sec. 1307.101. REGISTRATION REQUIRED. (a) Except as
18 provided by Section 1307.003, a person may not perform or offer to
19 perform roofing services unless the person holds a certificate
20 issued under this chapter.

21 (b) A certificate:

22 (1) is valid only with respect to the person or company
23 named on the certificate; and

24 (2) authorizes the registrant to operate one roofing
25 contractor business for each certificate.

26 Sec. 1307.102. APPLICATION; ELIGIBILITY. An applicant for
27 a certificate under this chapter must:

1 (1) submit to the department a completed application
2 on a form prescribed by the executive director;

3 (2) submit to the department any other information
4 required by the executive director or by rule;

5 (3) demonstrate the applicant's honesty,
6 trustworthiness, and integrity;

7 (4) submit sufficient information and an
8 authorization for the department to obtain criminal history record
9 information;

10 (5) submit proof of general liability insurance in an
11 amount not less than \$300,000;

12 (6) unless the applicant has elected not to obtain
13 workers' compensation coverage, as provided by Subchapter A,
14 Chapter 406, Labor Code, and provided notice under Section 406.004,
15 Labor Code, submit proof that the applicant maintains workers'
16 compensation coverage for the contractor's employees through an
17 insurance company authorized by the Texas Department of Insurance
18 to engage in the business of insurance in this state or through
19 self-insurance; and

20 (7) pay any required application fee.

21 Sec. 1307.103. REGISTRATION RENEWAL. (a) A certificate
22 issued under this chapter is valid for one year. The department may
23 adopt a system under which certificates expire at different times
24 during the year.

25 (b) The commission by rule shall adopt requirements to renew
26 a certificate issued under this chapter.

27 [Sections 1307.104-1307.150 reserved for expansion]

1 SUBCHAPTER D. PRACTICE BY CERTIFICATE HOLDER

2 Sec. 1307.151. DISPLAY OF CERTIFICATE INFORMATION. (a) A
3 roofing contractor shall display the contractor's business name and
4 the number of the certificate issued by the executive director on
5 each vehicle used by the contractor in providing roofing services.

6 (b) The information required to be displayed must be:

7 (1) printed in letters and numbers that are at least
8 two inches high and in a color that contrasts with the color of the
9 background surface; and

10 (2) permanently affixed in conspicuous places on both
11 sides of the vehicle.

12 (c) The commission may develop rules for the display of the
13 certificate number on contracts and other documents used to solicit
14 and conduct roofing services in this state.

15 Sec. 1307.152. USE OF CERTIFICATE. (a) A roofing
16 contractor's certificate number:

17 (1) must be valid and in good standing at the time of
18 soliciting a project and during subsequent job performance;

19 (2) must be provided when applying for a permit issued
20 by the state or any political subdivision of the state for
21 commercial or residential roofing services or projects; and

22 (3) may not be shared or used by any other individual
23 or business entity, except that a business entity or other group may
24 be granted a single roofing registration certificate number for use
25 by designated roofing contractors acting as agents for the business
26 entity if:

27 (A) the application for registration contains

1 sufficient information on each member, partner, officer, and agent
2 of the entity; and

3 (B) the department issued a single certificate
4 number to those persons as a single business entity.

5 (b) At the time of any change to the name, address, business
6 entity, or legal service agent of a roofing contractor, the
7 contractor shall notify the department.

8 Sec. 1307.153. COMPLIANCE WITH PERMIT REQUIREMENTS. A
9 roofing contractor shall comply with state laws and local
10 ordinances and regulations relating to standards and permits for
11 roofing services and projects.

12 Sec. 1307.154. OBTAINING A CERTIFICATE UNDER ANOTHER NAME
13 PROHIBITED. (a) A person may not attempt to obtain a certificate
14 under any other name during any period during which the person's
15 roofing contractor registration is suspended or revoked.

16 (b) Subsection (a) applies to any member, partner, officer,
17 or agent of a business entity or other group whose certificate is
18 suspended or revoked.

19 Sec. 1307.155. INSURANCE CLAIMS FOR RESIDENTIAL ROOFING
20 GOODS AND SERVICES; PAYMENT OR REBATE OF INSURANCE DEDUCTIBLE. A
21 registered roofing contractor providing residential roofing
22 services to be paid by an insured from the proceeds of a property or
23 casualty insurance policy may not advertise or promise to pay or
24 rebate all or part of any applicable insurance deductible.

25 [Sections 1307.156-1307.200 reserved for expansion]

26 SUBCHAPTER E. ENFORCEMENT

27 Sec. 1307.201. DENIAL OF LICENSE; ADMINISTRATIVE

1 SANCTIONS. The department may deny an application for a
2 certificate or impose an administrative sanction under Section
3 51.353 if the applicant or, if the applicant is not an individual, a
4 partner, principal, officer, or general manager of the applicant
5 has:

6 (1) before the date of the application, a criminal
7 conviction or has pleaded guilty or no contest to an offense for:

8 (A) a felony; or

9 (B) a misdemeanor punishable by confinement in
10 jail or by a fine in an amount that exceeds \$500;

11 (2) violated this chapter or a rule or order of the
12 commission or executive director, including an order for sanctions
13 or administrative penalties; or

14 (3) knowingly submitted false or incomplete
15 information on the application.

16 Sec. 1307.202. INVESTIGATION OF COMPLAINTS. (a) The
17 department shall investigate any complaint filed with the
18 department alleging that a person has:

19 (1) violated this chapter or a rule adopted under this
20 chapter;

21 (2) abandoned a roofing contract without legal excuse
22 after a deposit of money or other consideration has been paid;

23 (3) misused money or property entrusted to a roofing
24 contractor;

25 (4) engaged in any fraudulent or deceptive act or
26 practice or misrepresentation as a roofing contractor;

27 (5) made a false or misleading statement in an

1 application for a certificate or certificate renewal;

2 (6) been convicted of an offense that prohibits the
3 person from registering as a roofing contractor or affects the
4 ability of the person to act as a roofing contractor;

5 (7) performed roofing services without a valid
6 certificate under this chapter; or

7 (8) performed roofing services without obtaining a
8 permit required by a state or local authority.

9 (b) A complaint must be filed in a manner prescribed by the
10 department.

11 Sec. 1307.203. ADMINISTRATIVE PENALTY. (a) The commission
12 or executive director may impose an administrative penalty on a
13 person under Subchapter F, Chapter 51, regardless of whether the
14 person holds a certificate under this chapter, if the person
15 violates:

16 (1) this chapter or a rule adopted under this chapter;
17 or

18 (2) a rule or order of the executive director or
19 commission.

20 (b) An administrative penalty may not be imposed unless the
21 person charged with a violation is provided the opportunity for a
22 hearing.

23 Sec. 1307.204. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
24 PENALTY. (a) The executive director may issue a cease and desist
25 order as necessary to enforce this chapter if the executive
26 director determines that the action is necessary to prevent a
27 violation of this chapter and to protect public health and safety.

1 (b) The attorney general or executive director may
2 institute an action for an injunction or a civil penalty under this
3 chapter as provided by Section 51.352.

4 Sec. 1307.205. SANCTIONS. The department may impose
5 sanctions as provided by Section 51.353.

6 Sec. 1307.206. CRIMINAL PENALTY. (a) A person commits an
7 offense if the person:

8 (1) violates the registration requirements of this
9 chapter; or

10 (2) performs roofing services without a certificate
11 required by this chapter.

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

13 SECTION 2. Not later than March 31, 2012, the Texas
14 Commission of Licensing and Regulation and the Texas Department of
15 Licensing and Regulation, as appropriate, shall adopt rules and
16 forms necessary to implement Chapter 1307, Occupations Code, as
17 added by this Act.

18 SECTION 3. (a) Except as provided by Subsection (b) of this
19 section, this Act takes effect September 1, 2011.

20 (b) Section 1307.101, Occupations Code, and Subchapters D
21 and E, Chapter 1307, Occupations Code, as added by this Act, take
22 effect September 1, 2012.