

By: Sheets, Sheffield of Bell, Eiland,
Smithee, et al.

H.B. No. 2693

Substitute the following for H.B. No. 2693:

By: Smith

C.S.H.B. No. 2693

A BILL TO BE ENTITLED

1 AN ACT
2 relating to voluntary registration and regulation of roofing
3 contractors; providing criminal penalties; authorizing a fee.

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

5 SECTION 1. Title 20, Insurance Code, is amended by adding
6 Chapter 6004 to read as follows:

7 CHAPTER 6004. ROOFING CONTRACTORS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 6004.001. SHORT TITLE. This chapter may be cited as
10 the Roofing Contractor Consumer Protection Act.

11 Sec. 6004.002. DEFINITIONS. In this chapter:

12 (1) "Roofing contractor":

13 (A) means an individual performing roofing
14 services for the public for compensation who:

15 (i) is operating as an individual or sole
16 proprietorship; or

17 (ii) with respect to a business entity:

18 (a) is an owner, officer, or director
19 of the business entity;

20 (b) possesses direct or indirect
21 control of not less than, as applicable:

22 (1) 10 percent of the voting
23 shares of a corporate entity; or

24 (2) \$25,000 of the fair market

1 value of a noncorporate entity;

2 (c) possesses direct or indirect
3 control of the management or policies of the business entity; or

4 (d) has a direct or indirect interest
5 in not less than 10 percent of the profits, proceeds, or capital
6 gains of the business entity; and

7 (B) does not include an individual acting as an
8 engineer licensed under Chapter 1001, Occupations Code, or an
9 architect registered under Chapter 1051, Occupations Code.

10 (2) "Roofing product" means any material commonly used
11 in the construction, installation, or replacement of a commercial
12 or residential roof.

13 (3) "Roofing services" means the installation,
14 construction, maintenance, repair, alteration, or modification of
15 a roofing product for a commercial or residential roof.

16 Sec. 6004.003. CONSTRUCTION OF CHAPTER; CONFLICT WITH OTHER
17 LAW. This chapter shall be construed to be in addition to any
18 required license, certification, or registration of persons in this
19 state. This chapter is not intended to conflict with or affect the
20 authority of any state or local agency, board, or department that
21 administers or enforces any law or ordinance or that establishes,
22 administers, or enforces a policy, rule, qualification, or standard
23 for a trade or profession. This chapter does not require that a
24 roofing contractor be registered under this chapter to engage in
25 the business of providing roofing services in this state.

26 SUBCHAPTER B. POWERS AND DUTIES

27 Sec. 6004.051. ADMINISTRATION. The commissioner shall

1 administer this chapter in accordance with Chapter 36.

2 Sec. 6004.052. VOLUNTARY REGISTRANT DATABASE. The
3 department shall make available on its Internet website a publicly
4 accessible list of roofing contractors who voluntarily elect to
5 register under this chapter. The list must contain the following
6 for each registered roofing contractor:

7 (1) contact information for the contractor;

8 (2) the name of each business entity with respect to
9 which the registrant is described by Section 6004.002(1)(A)(ii);

10 (3) a statement indicating whether the contractor is
11 registered in good standing under this chapter;

12 (4) a summary of known disciplinary action taken
13 against the contractor; and

14 (5) any other information that the commissioner
15 considers relevant.

16 SUBCHAPTER C. VOLUNTARY REGISTRATION

17 Sec. 6004.101. REGISTRATION. (a) A roofing contractor who
18 voluntarily elects to register under this chapter may represent to
19 the public that the contractor is a registered roofing contractor.

20 (b) A registration:

21 (1) is valid only with respect to the individual named
22 on the certificate of registration; and

23 (2) authorizes the registrant to operate under the
24 registration under the business names included in the application
25 for registration.

26 (c) A registration certificate may not be transferred or
27 assigned.

1 Sec. 6004.102. APPLICATION; APPLICATION FEE. (a) An
2 applicant for a registration certificate must:

3 (1) apply to the department on a form prescribed by the
4 commissioner by rule; and

5 (2) submit with the application a nonrefundable
6 application fee established by the commissioner by rule.

7 (b) The commissioner by rule shall specify the information
8 that must be included on an application submitted to the
9 department.

10 Sec. 6004.103. ISSUANCE OF CERTIFICATE. The commissioner
11 shall issue a numbered certificate of registration to an applicant
12 who submits an application and fee in compliance with Section
13 6004.102.

14 Sec. 6004.104. TERM OF REGISTRATION; RENEWAL. (a) A
15 certificate of registration issued under this chapter is valid for
16 one year.

17 (b) Except as provided by Subsection (c), an application for
18 renewal of a certificate of registration must be filed with the
19 department not later than the 30th day before the date the
20 certificate of registration expires. A certificate of registration
21 for which an application for renewal is not timely filed under this
22 subsection is considered not in good standing until the later of the
23 date of the expiration of the certificate of registration under
24 Subsection (d) or the granting of an application described by
25 Subsection (c), if any.

26 (c) A registrant may file an application for renewal not
27 later than the 30th day after the date a certificate of registration

1 expires.

2 (d) A certificate of registration not renewed under
3 Subsection (b) or (c) may not be renewed. The individual may obtain
4 a new certificate of registration by complying with the
5 requirements and procedures for obtaining an initial certificate of
6 registration.

7 SUBCHAPTER D. PRACTICE BY ROOFING CONTRACTOR

8 Sec. 6004.151. COMPLIANCE WITH LOCAL REQUIREMENTS. A
9 roofing contractor shall comply with local ordinances and
10 regulations relating to standards and permits for roofing services.

11 Sec. 6004.152. NOTIFICATION OF CHANGE OF INFORMATION. A
12 registrant shall timely notify the department of any change to the
13 name, address, business entity, or legal service agent of the
14 contractor.

15 Sec. 6004.153. REGISTRATION DURING SUSPENSION OR
16 REVOCAION PROHIBITED. An individual may not obtain another
17 certificate of registration under this chapter during any period in
18 which the individual's certificate of registration is suspended or
19 revoked.

20 Sec. 6004.154. REBATING PROHIBITED. (a) A roofing
21 contractor providing roofing services to be paid by a consumer from
22 the proceeds of the consumer's property insurance policy may not
23 pay or rebate or promise to pay or rebate all or part of any
24 applicable insurance deductible.

25 (b) A roofing contractor that violates Subsection (a)
26 commits an offense. An offense under this subsection is a Class A
27 misdemeanor.

1 Sec. 6004.155. CONFLICTS OF INTEREST PROHIBITED. A roofing
2 contractor may not act as an adjuster or advertise to adjust claims
3 for any property for which the contractor is providing or may
4 provide roofing services, regardless of whether the contractor
5 holds a license under Chapter 4101 or 4102.

6 Sec. 6004.156. ENGINEERING AND ARCHITECTURE SERVICES
7 PROHIBITED. Unless a roofing contractor holds a license under the
8 applicable chapter, the contractor may not engage or offer or
9 attempt to engage in the practice of:

10 (1) engineering regulated under Chapter 1001,
11 Occupations Code; or

12 (2) architecture regulated under Chapter 1051,
13 Occupations Code.

14 Sec. 6004.157. DISPLAY OF CERTIFICATE OF REGISTRATION
15 NUMBER PERMITTED. A registrant may display the certificate of
16 registration number issued to the contractor under Section
17 6004.103.

18 Sec. 6004.158. LIABILITY INSURANCE DISCLOSURE. (a) A
19 roofing contractor shall provide to all consumers solicited by the
20 contractor a written disclosure of whether the contractor carries
21 liability insurance coverage for damage or loss arising from the
22 contractor's provision of roofing services.

23 (b) A roofing contractor may not enter into a contract for
24 roofing services with a consumer until the contractor provides to
25 the consumer the disclosure described by Subsection (a).

26 (c) On request of a consumer, a roofing contractor that
27 carries liability insurance coverage described by Subsection (a)

1 shall provide to the consumer a copy of the declarations page of the
2 insurance policy.

3 SUBCHAPTER E. ENFORCEMENT

4 Sec. 6004.201. INVESTIGATION OF COMPLAINTS. (a) The
5 department shall investigate any complaint alleging that a
6 voluntary registrant has violated this chapter or a rule adopted
7 under this chapter.

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

10 Sec. 6004.202. CRIMINAL PENALTY. (a) A roofing contractor
11 commits an offense if the contractor:

12 (1) violates Section 6004.155 or 6004.158; or

13 (2) represents to the public that the contractor is a
14 registered roofing contractor unless the contractor is registered
15 under this chapter and has received from the department
16 confirmation of registration.

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

18 SECTION 2. Not later than February 1, 2014, the
19 commissioner of insurance shall adopt rules and forms necessary to
20 implement Chapter 6004, Insurance Code, as added by this Act.

21 SECTION 3. This Act takes effect September 1, 2013.