

By: Sheets

H.B. No. 2693

A BILL TO BE ENTITLED

AN ACT

relating to the registration of roofing contractors; authorizing a fee and providing penalties.

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

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

CHAPTER 6004. ROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 6004.001. SHORT TITLE. This chapter may be cited as the Roofing Contractor Registration Act.

Sec. 6004.002. DEFINITIONS. In this chapter:

(2) "Agricultural use" means a use or activity involving agriculture, as defined by Section 11.002, Water Code, other than the processing of an agricultural commodity.

(3) "Commissioner" means the commissioner of insurance.

(5) "Department" means the Texas Department of Insurance."

(6) "Maintenance personnel" means an employee who performs maintenance work incidental to and in connection with other duties including the repair, maintenance and replacement of existing building systems and components. Such maintenance personnel shall not engage in roofing services for the general

1 public.

2 (7) "Roofing contractor" means a person or business  
3 performing roofing services for compensation who:

4 (A) is an owner, officer, or director of a  
5 roofing business;

6 (B) possesses direct or indirect control of at  
7 least 10 percent of the voting securities of a roofing business that  
8 is a corporation;

9 (C) owns or possesses direct or indirect control  
10 of at least \$25,000 of the fair market value of a roofing business;

11 (D) directly or indirectly possesses the power to  
12 direct or cause the direction of the management or policies of a  
13 roofing business; or

14 (E) has a direct or indirect interest in at least  
15 10 percent of the profits, proceeds, or capital gains of a roofing  
16 business.

17 (8) "Roofing product" means any material commonly used  
18 in the construction, installation, or replacement of a commercial  
19 or residential roof.

20 (9) "Roofing services" means the installation,  
21 construction, maintenance, repair, alteration, or modification of  
22 a roofing product for a commercial or residential roof.

23 (10) "Remodeler" means a person who manages, oversees  
24 or carries out multiple structural alterations, in addition to the  
25 performance of roofing services, for an existing residential or  
26 commercial property for compensation.

1       Sec. 6004.003. EXEMPTIONS. (a) This chapter does not apply  
2 to:

3           (1) the owner of residential property or property used  
4 primarily for agricultural purposes, or an employee of the owner,  
5 who physically performs roofing services on the owner's dwelling or  
6 on another structure located on the property;

7           (2) the owner or maintenance personnel of a commercial  
8 building;

9           (3) an authorized employee or representative of the  
10 United States government, this state, or any county, municipality,  
11 or other political subdivision of this state acting in an official  
12 capacity;

13           (4) a person who furnishes any fabricated or finished  
14 roofing product, material, or article of merchandise that is not  
15 incorporated into or attached to real property by the person;

16           (5) an employee while working for and acting under the  
17 supervision of a roofing contractor who holds a registration  
18 certificate under this chapter; or

19           (6) a builder of a newly constructed single family or  
20 multi-family residential dwelling or commercial structure.

21           (7) a remodeler of a single family or multi-family  
22 residential dwelling or commercial structure.

23           (b) Notwithstanding Subsection (a), a person described by  
24 Subsection (a)(6),(7) is subject to the requirements of this  
25 chapter to the extent the person provides roofing services other  
26 than those described by that subdivision.

27       Sec. 6004.004. CONSTRUCTION OF CHAPTER; CONFLICT WITH OTHER

1 LAW. This chapter shall be construed to be in addition to any  
2 required registration of persons in this state. This chapter is not  
3 intended to conflict with or affect the authority of any state or  
4 local agency, board, or department that administers or enforces any  
5 law or ordinance or that establishes, administers, or enforces a  
6 policy, rule, qualification, or standard for a trade or profession.

7 [Sections 6004.005-6004.100 reserved for expansion]

8 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND COMMISSIONER

9 Sec. 6004.101. GENERAL POWERS AND DUTIES. The department  
10 or commissioner, as appropriate, may take action as necessary to  
11 administer and enforce this chapter.

12 Sec. 6004.102. RULES. The commissioner shall adopt rules  
13 as necessary to administer this chapter, including rules relating  
14 to:

15 (1) registration and renewal of registrations of  
16 roofing contractors;

17 (2) registration requirements for out of state roofing  
18 contractors.

19 (3) the display of a registration certificate by a  
20 registrant; and

21 (4) the form and manner of a complaint submitted to the  
22 department; including the investigation of complaints.

23 Sec. 6004.103. UNIFORM CONTRACT REQUIREMENT. The  
24 commissioner shall adopt rules necessary to establish the elements  
25 of a uniform contract which shall be made available for all  
26 registrants to use, if requested.

1       Sec. 6004.104 REQUIRED FINANCIAL DISCLOSURE.       The  
2 commissioner shall adopt rules requiring registrants to disclose,  
3 in writing, whether or not a registrant carries insurance or  
4 maintains any other form of financial responsibility, including any  
5 form of liability coverage, surety bond, workers compensation  
6 coverage, or other coverage. This disclosure shall be made to any  
7 consumer for whom a registrant seeks to provide roofing services  
8 and must be made prior to the signing of a contract with a consumer.

9       Sec. 1307.105. REGISTRANT DATABASE. The department shall  
10 make available on its Internet website a publicly accessible list  
11 of registered roofing contractors. The list must contain the  
12 following for each registered roofing contractor:

- 13               (1) contact information for the contractor;  
14               (2) a statement indicating whether the contractor is  
15 registered and in good standing;  
16               (3) a summary of any known disciplinary action taken  
17 against the contractor; and  
18               (4) any other information that the department  
19 determines is relevant.

20       [Sections 6004.106-6004.150 reserved for expansion]

21       SUBCHAPTER C. REGISTRATION REQUIREMENTS

22       Sec. 6004.151. REGISTRATION REQUIRED. (a) A person may not  
23 act as or offer to act as a roofing contractor unless the person  
24 holds a registration certificate issued under this chapter.

25       (b) A registration:

- 26               (1) is valid only with respect to the person or company  
27 named on the registration certificate; and

1           (2) authorizes the registrant to operate one roofing  
2 contractor business for each registration.

3           (c) a registration may not be transferred or assigned.

4           Sec. 6004.152. APPLICATION; APPLICATION FEE. (a) An  
5 applicant for registration must:

6           (1) apply to the department on a form prescribed by the  
7 commissioner and under rules adopted by the commissioner;

8           (2) submit with the application a nonrefundable  
9 application fee in an amount to be set by the commissioner.

10          (b) The commissioner by rule shall specify the information  
11 that must be included on an application submitted to the  
12 department. The rules must require each application to include:

13           (1) the name and address of each controlling person.

14          Sec. 6004.153. TERM OF REGISTRATION AND RENEWAL. (a)  
15 Registration issued under this chapter is valid for one year.

16          (b) A renewal application must be filed by a roofing  
17 contractor at least 30 days prior to the expiration of each prior  
18 years registration.

19          (c) If a roofing contractor fails to file a renewal  
20 application at least 30 days prior to the expiration of the prior  
21 years registration then the roofing contractor's registration  
22 shall be deemed not in good standing.

23          (d) A roofing contractor has a thirty-day grace period  
24 to renew a registration beyond the expiration date.

25          (e) A roofing contractor who fails to renew a  
26 registration beyond the time provided in 6004.153 (d) shall have  
27 their registration revoked for failure to renew.

1 [Sections 6004.154-6004.200 reserved for expansion]

2 SUBCHAPTER D. PRACTICE BY REGISTRANT

3 Sec. 6004.201. DISPLAY OF REGISTRATION CERTIFICATE. (a) A  
4 roofing contractor shall display the contractor's business name and  
5 the number of the registration certificate issued by the  
6 commissioner on each vehicle owned by the contractor and used in  
7 providing roofing services.

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

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

12 (2) affixed in conspicuous places on both sides of the  
13 vehicle.

14 Sec. 6004.202. COMPLIANCE WITH LOCAL REQUIREMENTS. A  
15 roofing contractor shall comply with local ordinances and  
16 regulations relating to standards and permits for roofing services.

17 Sec. 6004.203. OBTAINING A REGISTRATION UNDER ANOTHER NAME  
18 PROHIBITED. (a) A person may not attempt to obtain registration  
19 under any other name during any period during which the person's  
20 roofing contractor registration is suspended or revoked.

21 (b) Subsection (a) applies to any controlling person of a  
22 business entity or other group whose registration is suspended or  
23 revoked.

24 Sec. 6004.204. NOTIFICATION OF CHANGE OF INFORMATION. A  
25 roofing contractor shall timely notify the department of any change  
26 to the name, address, business entity, or legal service agent of the  
27 contractor.

1 Sec. 6004.205. WAIVER OF INSURANCE DEDUCTIBLE PROHIBITED.

2 A roofing contractor providing roofing services to be paid by a  
3 consumer from the proceeds of the consumer's property or casualty  
4 insurance policy may not pay or rebate or promise to pay or rebate  
5 all or part of any applicable insurance deductible.

6 Sec. 6004.206. MISREPRESENTATION AND DECEPTIVE ACTS  
7 PROHIBITED. A roofing contractor shall not engage in any  
8 fraudulent or deceptive acts or practices or misrepresentation of  
9 products, services, or qualifications of a roofing contractor.

10 SEC. 6004.207. CERTAIN CLAIMS HANDLING PROHIBITED. A  
11 roofing contractor shall not handle or advertise services to handle  
12 the adjustment of claims or losses on behalf of an insured.

13 Sec. 6004.206. CONFLICTS OF INTEREST PROHIBITED. (a) In  
14 this section, "public insurance adjuster" has the meaning assigned  
15 by Section 4102.001, Insurance Code.

16 (b) A roofing contractor may not act as a public insurance  
17 adjuster for any property for which the contractor is providing  
18 roofing services, regardless of whether the contractor holds a  
19 license under Chapter 4102, Insurance Code.

20 (c) A roofing contractor is subject to the prohibitions  
21 under Section 4102.158, 4102.153, 4102.155 and 4102.161, Insurance  
22 Code.

23 [Sections 6004.207-6004.250 reserved for expansion]

24 SUBCHAPTER E. ENFORCEMENT

25 Sec. 6004.251. INVESTIGATION OF COMPLAINTS. (a) The  
26 department shall investigate any complaint alleging that a  
27 violation of this chapter or a rule adopted under this chapter has



1 occurred.

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

4 Sec. 6004.252 ADMINISTRATIVE PENALTY. The commissioner may  
5 impose an administrative penalty on a person under Subchapter B,  
6 Chapter 84, regardless or whether the person is a registrant under  
7 this chapter, if the person violates:

8 (1) this chapter or a rule adopted under this chapter;

9 or

10 (2) a rule or order of the department or commissioner.

11 Sec. 6004.253. PENALTIES. The commissioner may impose a  
12 penalty as provided by Section 84.022.

13 Sec. 6004.254. CRIMINAL PENALTY. (a) A person commits an  
14 offense if the person:

15 (1) violates the registration requirements of this  
16 chapter; or

17 (2) performs roofing services without the  
18 registration required by this chapter.

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

20 (c) More than one violation of this act during any  
21 twelve-month period shall be grounds for the suspension of a  
22 roofing contractors registration by the department.

23 (d) More than two violations of this act during any  
24 twelve-month period shall cause the registrant to be ineligible for  
25 registration for a period not to exceed twelve-months from the date  
26 of the last violation.

1           SECTION 2. Not later than February 1, 2014, the Texas  
2 Department of Insurance, the Commissioner of the Department of  
3 Insurance, as appropriate, shall adopt rules and forms necessary to  
4 implement Chapter 6004, Insurance Code, as added by this Act.

5           SECTION 3. (a) Except as provided by Subsection (b) of this  
6 section, this Act takes effect September 1, 2013.

7           (b) Section 6004.151, Insurance Code, and Subchapters E and  
8 F, Chapter 6004, Insurance Code, as added by this Act, take effect  
9 September 1, 2014.