

By: Carona

S.B. No. 311

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 1307. ROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1307.001. SHORT TITLE. This chapter may be cited as  
the Roofing Contractor Consumer Protection Act.

Sec. 1307.002. DEFINITIONS. In this chapter:

(1) "Advisory board" means the roofing contractors  
advisory board.

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

(3) "Controlling person" means an individual who:

(A) is an owner, officer, or director of a  
roofing contractor;

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

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

1           (D) directly or indirectly possesses the power to  
2 direct or cause the direction of the management or policies of a  
3 roofing contractor; or

4           (E) has a direct or indirect interest in at least  
5 10 percent of the profits, proceeds, or capital gains of a roofing  
6 contractor.

7           (4) "Department" means the Texas Department of  
8 Licensing and Regulation.

9           (5) "Executive director" means the executive director  
10 of the department.

11           (6) "Roofing contractor" means a person who performs  
12 roofing services for compensation.

13           (7) "Roofing product" means any material commonly used  
14 in the construction, installation, or replacement of a commercial  
15 or residential roof.

16           (8) "Roofing services" means the installation,  
17 construction, maintenance, repair, alteration, or modification of  
18 a roofing product for a commercial or residential roof.

19           Sec. 1307.003. EXEMPTIONS. (a) This chapter does not apply  
20 to:

21           (1) the owner of residential property or property used  
22 primarily for agricultural purposes, or an employee of the owner,  
23 who physically performs roofing services on the owner's dwelling or  
24 on another structure located on the property;

25           (2) an authorized employee or representative of the  
26 United States government, this state, or any county, municipality,  
27 or other political subdivision of this state acting in an official

1 capacity;

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

5 (4) an employee of a roofing contractor licensed under  
6 this chapter; or

7 (5) a person who performs roofing services for the new  
8 construction of a commercial or residential structure.

9 (b) Notwithstanding Subsection (a), a person described by  
10 Subsection (a)(5) may be subject to the requirements of this  
11 chapter to the extent the person provides roofing services other  
12 than those described by that subdivision.

13 Sec. 1307.004. CONSTRUCTION OF CHAPTER; CONFLICT WITH OTHER  
14 LAW. This chapter shall be construed to be in addition to any  
15 required licensure of persons in this state. This chapter is not  
16 intended to conflict with or affect the authority of any state or  
17 local agency, board, or department that administers or enforces any  
18 law or ordinance or that establishes, administers, or enforces a  
19 policy, rule, qualification, or standard for a trade or profession.

20 [Sections 1307.005-1307.050 reserved for expansion]

21 SUBCHAPTER B. ADVISORY BOARD

22 Sec. 1307.051. ROOFING CONTRACTORS ADVISORY BOARD. (a)  
23 The advisory board consists of five members appointed by the  
24 presiding officer of the commission with the approval of the  
25 commission as follows:

26 (1) one general contractor who is not a roofing  
27 contractor;

1           (2) three roofing contractors licensed under this  
2 chapter; and

3           (3) one public member.

4           (b) For purposes of Subsection (a)(2), the commission may  
5 appoint a roofing contractor who is not licensed under this chapter  
6 if the contractor has fulfilled the requirements for the issuance  
7 of a license and has submitted a complete application to the  
8 department. The commission shall remove from the advisory board a  
9 roofing contractor appointed under this subsection if the  
10 contractor does not receive a license before the 31st day after the  
11 date the contractor is appointed to the advisory board.

12           (c) Appointments to the advisory board shall be made without  
13 regard to the race, color, disability, sex, religion, age, or  
14 national origin of the appointee.

15           (d) Chapter 2110, Government Code, does not apply to the  
16 composition or duration of the advisory board.

17           Sec. 1307.052. POWERS AND DUTIES OF ADVISORY BOARD. The  
18 advisory board shall provide advice and recommendations to the  
19 commission on the adoption of rules governing the repair of a  
20 roofing system.

21           Sec. 1307.053. COMPENSATION. Advisory board members may  
22 not receive compensation for serving as a member.

23           [Sections 1307.054-1307.100 reserved for expansion]

24           SUBCHAPTER C. POWERS AND DUTIES OF DEPARTMENT AND COMMISSION

25           Sec. 1307.101. GENERAL POWERS AND DUTIES. The department,  
26 executive director, or commission, as appropriate, may take action  
27 as necessary to administer and enforce this chapter.

1       Sec. 1307.102. RULES. The commission shall adopt rules as  
2 necessary to administer this chapter, including rules relating to:

3           (1) licensing roofing contractors and establishing  
4 standards of conduct for license holders, including the display of  
5 a license by a license holder;

6           (2) investigating and resolving complaints filed  
7 under this chapter;

8           (3) establishing the minimum financial responsibility  
9 requirements for license holders;

10          (4) administering a licensing examination; and

11          (5) prohibiting false, misleading, or deceptive  
12 advertising practices by license holders.

13       Sec. 1307.103. CRIMINAL HISTORY BACKGROUND CHECK. The  
14 department may obtain criminal history record information under  
15 Subchapter F, Chapter 411, Government Code, for an applicant for or  
16 holder of a license under this chapter. For purposes of Section  
17 411.093, Government Code, an applicant for or holder of a license  
18 under this chapter includes a controlling person of an applicant or  
19 holder.

20       Sec. 1307.104. LICENSE HOLDER DATABASE. The commission  
21 shall make available on its Internet website a publicly accessible  
22 list of licensed roofing contractors. The list must contain the  
23 following for each licensed roofing contractor:

24           (1) contact information for the contractor;

25           (2) a statement indicating whether the contractor is  
26 licensed in good standing;

27           (3) a summary of any disciplinary action taken by the

1 commission against the contractor; and

2 (4) any other information that the commission  
3 determines is relevant.

4 [Sections 1307.105-1307.150 reserved for expansion]

5 SUBCHAPTER D. LICENSE REQUIREMENTS

6 Sec. 1307.151. LICENSE REQUIRED. (a) A person may not act  
7 as or offer to act as a roofing contractor unless the person holds a  
8 license issued under this chapter.

9 (b) A license:

10 (1) is valid only with respect to the person or company  
11 named on the license; and

12 (2) authorizes the license holder to operate one  
13 roofing contractor business for each license.

14 (c) A license issued under this chapter is not transferable  
15 or assignable.

16 Sec. 1307.152. APPLICATION; APPLICATION FEE. (a) An  
17 applicant for a license must:

18 (1) apply to the department on a form prescribed by the  
19 executive director and under rules adopted by the commission;

20 (2) submit with the application a nonrefundable  
21 application fee in an amount set by the commission; and

22 (3) pass an examination adopted by the department.

23 (b) The commission by rule shall specify the information  
24 that must be included on an application submitted to the  
25 department. The rules must require each application to include:

26 (1) the name and address of, and an authorization for  
27 the department to obtain criminal history record information for,

1 each controlling person; and

2 (2) evidence that the applicant satisfies the minimum  
3 financial responsibility requirements established by commission  
4 rule.

5 Sec. 1307.153. TERM OF LICENSE. A license issued under this  
6 chapter is valid for one year.

7 Sec. 1307.154. EXAMINATION. (a) An examination required  
8 by this chapter shall be conducted at locations throughout the  
9 state.

10 (b) The department shall accept, develop, or contract for  
11 the examination required by this chapter, including the  
12 administration of the examination. Each examination must test the  
13 knowledge of the applicant about basic contracting principles and  
14 roofing services.

15 (c) The executive director shall determine uniform  
16 standards for acceptable performance on an examination.

17 [Sections 1307.155-1307.200 reserved for expansion]

18 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

19 Sec. 1307.201. DISPLAY OF LICENSE INFORMATION. (a) A  
20 roofing contractor shall display the contractor's business name and  
21 the number of the license issued by the executive director on each  
22 vehicle owned by the contractor and used in providing roofing  
23 services.

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

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

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

3           Sec. 1307.202. COMPLIANCE WITH LOCAL REQUIREMENTS. A  
4 roofing contractor shall comply with local ordinances and  
5 regulations relating to standards and permits for roofing services.

6           Sec. 1307.203. OBTAINING A LICENSE UNDER ANOTHER NAME  
7 PROHIBITED. (a) A person may not attempt to obtain a license under  
8 any other name during any period during which the person's roofing  
9 contractor license is suspended or revoked.

10           (b) Subsection (a) applies to any controlling person of a  
11 business entity or other group whose license is suspended or  
12 revoked.

13           Sec. 1307.204. NOTIFICATION OF CHANGE OF INFORMATION. A  
14 roofing contractor shall timely notify the department of any change  
15 to the name, address, business entity, liability coverage, or legal  
16 service agent of the contractor.

17           Sec. 1307.205. PROHIBITED ACTS. A roofing contractor  
18 providing roofing services to be paid by a consumer from the  
19 proceeds of the consumer's property or casualty insurance policy  
20 may not pay or rebate or promise to pay or rebate all or part of any  
21 applicable insurance deductible.

22           Sec. 1307.206. CONFLICTS OF INTEREST PROHIBITED. (a) In  
23 this section, "public insurance adjuster" has the meaning assigned  
24 by Section 4102.001, Insurance Code.

25           (b) A roofing contractor may not act as a public insurance  
26 adjuster for any property for which the contractor is providing  
27 roofing services, regardless of whether the contractor holds a



1 license under Chapter 4102, Insurance Code.

2 (c) A roofing contractor is subject to the prohibitions  
3 under Section 4102.158, Insurance Code.

4 [Sections 1307.207-1307.250 reserved for expansion]

5 SUBCHAPTER F. ENFORCEMENT

6 Sec. 1307.251. INVESTIGATION OF COMPLAINTS. (a) The  
7 department shall investigate any complaint alleging that a  
8 violation of this chapter or a rule adopted under this chapter has  
9 occurred.

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

12 Sec. 1307.252. ADMINISTRATIVE PENALTY. The commission or  
13 executive director may impose an administrative penalty on a person  
14 under Subchapter F, Chapter 51, regardless of whether the person  
15 holds a license under this chapter, if the person violates:

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

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

20 Sec. 1307.253. SANCTIONS. The commission may impose  
21 sanctions as provided by Section 51.353.

22 Sec. 1307.254. CRIMINAL PENALTY. (a) A person commits an  
23 offense if the person:

24 (1) violates the licensing requirements of this  
25 chapter; or

26 (2) performs roofing services without a license  
27 required by this chapter.

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

2           SECTION 2. Not later than February 1, 2014, the Texas  
3 Commission of Licensing and Regulation, the Texas Department of  
4 Licensing and Regulation, and the executive director of the Texas  
5 Department of Licensing and Regulation, as appropriate, shall adopt  
6 rules and forms necessary to implement Chapter 1307, Occupations  
7 Code, as added by this Act.

8           SECTION 3. The Texas Department of Licensing and Regulation  
9 shall issue a roofing contractor license under Chapter 1307,  
10 Occupations Code, as added by this Act, to an applicant who:

11           (1) applies for a license under this section not later  
12 than June 1, 2014;

13           (2) submits to the department the information required  
14 by rule;

15           (3) has at least 10 years of experience performing  
16 roofing services as defined by Section 1307.002, Occupations Code,  
17 as added by this Act; and

18           (4) pays the application fee established by the Texas  
19 Commission of Licensing and Regulation.

20           SECTION 4. (a) Except as provided by Subsection (b) of this  
21 section, this Act takes effect September 1, 2013.

22           (b) Section 1307.151, Occupations Code, and Subchapters E  
23 and F, Chapter 1307, Occupations Code, as added by this Act, take  
24 effect September 1, 2014.