

By: Carona

S.B. No. 617

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of energy efficiency professionals;
providing penalties; authorizing a fee.

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. ENERGY EFFICIENCY PROFESSIONALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1307.001. DEFINITIONS. In this chapter:

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

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

(3) "Energy efficiency analysis, assessment, or
audit" means an evaluation of the energy consumption and efficiency
of a structure, including recommendations to reduce energy
consumption and improve energy efficiency.

(4) "Energy efficiency report" means a report produced
as a result of an energy efficiency analysis, assessment, or audit.

(5) "HVAC system" means a structure's heating,
ventilation, and air conditioning system.

(6) "Registered energy efficiency professional" means
a person who is registered with the department under this chapter.

Sec. 1307.002. APPLICABILITY. (a) This chapter applies to

1 an energy efficiency audit performed on a residential structure.

2 (b) A registered energy efficiency professional who
3 performs an energy efficiency analysis, assessment, or audit and
4 produces an energy efficiency report is not engaged in air
5 conditioning and refrigeration contracting as defined by Section
6 1302.002 if a component of the energy efficiency analysis,
7 assessment, or audit relating to an air conditioning and
8 refrigeration system is performed in accordance with the latest
9 version of the applicable federal and state standards.

10 Sec. 1307.003. EXEMPTIONS. (a) This chapter does not apply
11 to a person who:

- 12 (1) is licensed as an engineer under Chapter 1001;
13 (2) performs air conditioning and refrigeration
14 contracting work in the scope of the person's employment; and
15 (3) does not engage in air conditioning and
16 refrigeration contracting work for the public.

17 (b) A person is not required to be registered under this
18 chapter if the person is working under the direct supervision of a
19 registered energy efficiency professional who is physically
20 present on the premises where the work is performed.

21 SUBCHAPTER B. REGULATION OF ENERGY EFFICIENCY ANALYSES,
22 ASSESSMENTS, AND AUDITS

23 Sec. 1307.051. RULES. (a) The commission by rule shall
24 establish:

- 25 (1) the form and content of the required application
26 for registration under this chapter;
27 (2) an application fee for registration under this

1 chapter;

2 (3) insurance requirements for a registered energy
3 efficiency professional, which must be similar to the requirements
4 for the holder of an air conditioning and refrigeration contractor
5 license described by Section 1302.253(c);

6 (4) standards of conduct for a registered energy
7 efficiency professional; and

8 (5) other rules necessary for the administration of
9 this chapter.

10 (b) The commission may not:

11 (1) require an applicant or person registered under
12 this chapter to post a bond; or

13 (2) establish minimum education requirements for an
14 applicant for registration under this chapter, except as otherwise
15 provided in this chapter.

16 Sec. 1307.052. CONDUCTING ENERGY EFFICIENCY ANALYSES,
17 ASSESSMENTS, AND AUDITS. An energy efficiency analysis,
18 assessment, or audit may include:

19 (1) the inspection, testing, investigation, or
20 surveying of a structure to evaluate, measure, or quantify the
21 structure's energy consumption and efficiency, including:

22 (A) verification of the structure's HVAC system;

23 (B) inspection of the integrity of the building
24 envelope, including air leakage, durability, and insulation; and

25 (C) inspection and evaluation of the efficiency
26 of the structure's lighting, electronics, and appliances; and

27 (2) recommendations to improve the efficiency of an

1 item or system inspected or evaluated under Subdivision (1).

2 Sec. 1307.053. REQUIRED DISCLOSURES. An energy efficiency
3 report that contains a recommendation regarding an HVAC system must
4 contain the following disclosure in a type not smaller than 12
5 points: "Final HVAC system design and installation must be
6 performed by a licensed air conditioning and refrigeration
7 contractor in accordance with Chapter 1302, Texas Occupations Code.
8 All HVAC design recommendations in this report are based on the
9 standards of applicable Air Conditioning Contractors of America
10 Manuals and may vary depending on the equipment manufacturer, final
11 designer, and design layout."

12 Sec. 1307.054. LIST OF REGISTERED ENERGY EFFICIENCY
13 PROFESSIONALS. The department shall maintain a list of all persons
14 registered under this chapter.

15 SUBCHAPTER C. REGISTRATION

16 Sec. 1307.101. REGISTRATION REQUIRED. A person may not
17 perform an energy efficiency analysis, assessment, or audit or
18 produce an energy efficiency report on a residential structure
19 unless the person is registered by the department as a registered
20 energy efficiency professional.

21 Sec. 1307.102. QUALIFICATIONS; TERM OF REGISTRATION. (a)
22 The department shall register an applicant who:

23 (1) obtains a certification through an applicable
24 training and certification program accredited by a state or
25 national regulating body;

26 (2) completes at least five residential energy
27 efficiency analyses, assessments, or audits under the supervision

1 of a registered energy efficiency professional;

2 (3) demonstrates proof of:

3 (A) good standing with an organization that has
4 certified the applicant under Subdivision (1); and

5 (B) insurance as required by the commission; and

6 (4) submits the application and fees required by the
7 commission.

8 (b) Unless renewed, a registration issued under this
9 chapter expires on the first anniversary of the date of issuance.

10 Sec. 1307.103. RENEWAL AND CONTINUING EDUCATION. The
11 commission shall adopt rules for:

12 (1) continuing education required for registered
13 energy efficiency professionals; and

14 (2) the renewal of a registration issued under this
15 chapter.

16 SUBCHAPTER D. ENFORCEMENT

17 Sec. 1307.151. DISCIPLINARY ACTION. A person is subject to
18 any disciplinary action that may be imposed on a license holder
19 under Subchapter G, Chapter 51, if the person:

20 (1) violates this chapter or a rule adopted under this
21 chapter; or

22 (2) obtains a registration by fraud or false
23 representation.

24 Sec. 1307.152. ADMINISTRATIVE PENALTY. The department may
25 impose an administrative penalty in the manner provided by
26 Subchapter F, Chapter 51, on a person if the person:

27 (1) violates this chapter or a rule adopted under this

1 chapter; or

2 (2) obtains a registration by fraud or false
3 representation.

4 Sec. 1307.153. CEASE AND DESIST; CIVIL PENALTY; INJUNCTION.

5 (a) The department may issue a cease and desist order if the
6 department determines that an order is necessary to:

7 (1) prevent a violation of this chapter; or

8 (2) protect the public health and safety.

9 (b) The attorney general or the department under this
10 subchapter may institute an action for an injunction or a civil
11 penalty as provided by Section 51.352.

12 SECTION 2. (a) Not later than November 1, 2013, the Texas
13 Commission of Licensing and Regulation shall adopt rules required
14 by Chapter 1307, Occupations Code, as added by this Act.

15 (b) Notwithstanding Chapter 1307, Occupations Code, as
16 added by this Act, an energy efficiency professional is not
17 required to hold a certificate of registration under that chapter
18 to perform an energy efficiency analysis, assessment, or audit or
19 to produce an energy efficiency report until January 1, 2014.

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

22 (b) Section 1307.101, Occupations Code, as added by this
23 Act, takes effect January 1, 2014.