

BILL ANALYSIS

C.S.H.B. 2101
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls to enhance consumer protections with regard to reroofing contractors to guard against roofing fraud in light of reports of unethical actors flocking to recently storm-battered areas to take advantage of unsuspecting homeowners in need of fast roofing repairs to protect their properties. C.S.H.B. 2101 seeks to provide those enhanced consumer protections by regulating reroofing contractors.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 2101 amends the Occupations Code to set out provisions establishing the regulation of reroofing contractors and requires the Texas Department of Licensing and Regulation (TDLR) to administer and enforce those provisions. The bill exempts the following from the application of its provisions:

- an owner of residential property or property primarily used for agricultural purposes, or an employee of the owner, who performs a reroofing project on the owner's property;
- an authorized employee or representative of the U.S. government, the state, or a political subdivision of the state acting in an official capacity;
- the new construction of a residential or commercial structure;
- a person performing a minor reroofing project the value of which does not exceed \$500;
- a person who is licensed as a retailer of manufactured homes and is performing a reroofing project on a manufactured home; or
- an individual who otherwise engages in repairing, recovering, or replacing existing roof coverings on residential or commercial structures as an employee of or under contract with a registered reroofing contractor if the individual is not involved in soliciting, advertising, or executing contracts for the contractor.

C.S.H.B. 2101 exempts from the application of its provisions an individual who is a sales manager, project manager, or other individual employed or otherwise engaged by a registered reroofing contractor in the ordinary course of the contractor's business if the individual does not otherwise engage in repairing, recovering, or replacing existing roof coverings on residential or commercial structures. The bill requires such an individual to operate in the name of the

registered reroofing contractor and makes the contractor responsible for the conduct of that individual in complying with the bill's requirements. The bill expressly does not authorize a registered reroofing contractor to engage in the practice of engineering or architecture.

C.S.H.B. 2101 requires the Texas Commission of Licensing and Regulation (TCLR) by rule to prescribe the requirements for the issuance and renewal of a registration for a reroofing contractor and, with respect to reroofing projects on property located in an area for which the governor declares a state of disaster, provide for the issuance of a temporary emergency registration at a reduced fee. The bill authorizes TCLR to adopt additional rules as necessary to administer the bill's provisions; requires TCLR to adopt rules, procedures, and fees necessary to administer the bill's provisions not later than April 1, 2020; and requires TCLR to establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of that administration, including certain maximum fees.

C.S.H.B. 2101 sets out provisions relating to a registration database. The bill requires TDLR to make available on its website a publicly accessible list of all registered reroofing contractors who are in good standing that is searchable by name and location. The bill sets out the required content of the list with respect to each registered contractor.

C.S.H.B. 2101 prohibits a county or municipal building official from granting or approving a building or construction permit for a reroofing project unless the permit applicant is a registered reroofing contractor or exempt from registration under the bill's provisions and requires TDLR, on request of the official, to verify the registration of an applicant. The bill requires TDLR to establish a verification system to ensure a timely response to a request for verification of a registration.

C.S.H.B. 2101 establishes that TDLR is not required to begin issuing registrations of reroofing contractors before June 1, 2020, and sets out provisions relating to the application for and issuance and renewal of a registration.

C.S.H.B. 2101, effective August 1, 2020:

- prohibits a person who is not registered from performing or otherwise engaging in a reroofing project or soliciting, advertising, or contracting to perform or engage in a reroofing project;
- requires the registration to be issued in the form of a statement of registration number;
- establishes the effect of a registration number;
- authorizes a person to obtain a registration for more than one business; and
- establishes that a registration is not transferable.

C.S.H.B. 2101, with respect to a registered reroofing contractor:

- requires such a contractor to include the contractor's registration number in each contract for a reroofing project and each advertisement for a reroofing service by the contractor;
- prohibits such a contractor from making any representation or statement regarding the effect of being issued a registration under the bill's provisions or the fact that the contractor has been issued such a registration, other than including the registration number in those documents;
- prohibits such a contractor from advertising or promising to pay or rebate all or part of an insurance deductible in connection with a reroofing project in violation of Business & Commerce Code provisions relating to certain insurance claims for excessive charges;
- requires such a contractor, before engaging in a reroofing project, to provide a written contract to the property owner that is signed by the contractor and the property owner and sets out requirements for the contract's contents; and

- requires such a contractor to comply with applicable building codes; a related order, ordinance, or rule of a political subdivision; and, during a natural disaster, certain Business & Commerce Code provisions regarding disaster remediation contracts.

C.S.H.B. 2101, effective August 1, 2020:

- requires any complaint alleging a violation of the bill's provisions or a rule adopted under the bill's provisions to be filed in a manner prescribed by TDLR;
- requires TDLR to investigate any such complaint;
- authorizes the imposition of an administrative penalty and sanctions and the issuance of a cease and desist order;
- authorizes the attorney general or executive director to institute an action for a civil penalty and caps the amount of such a civil penalty at \$500 for each violation; and
- establishes that a reroofing contractor who advertises that the contractor holds a registration under the bill's provisions commits a false, misleading, or deceptive act or practice under the Deceptive Trade Practices-Consumer Protection Act if the contractor does not actually hold a valid registration.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2101 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a criminal offense and penalty but includes a civil penalty.

The substitute includes a provision establishing that the bill does not authorize a contractor to engage in the practice of engineering or architecture.

The substitute changes the following:

- the date TDLR begins issuing registrations;
- the effective date of the provision establishing registration requirements;
- the effective date of the enforcement provisions; and
- the date by which TDLR must adopt rules, procedures, and fees.

The substitute changes the means by which TDLR rules provide for temporary registration exceptions in a declared disaster area and includes a provision requiring TDLR rules to provide for a reduced registration fee for the temporary registration.

The substitute revises the following:

- exemptions from the registration requirement; and
- required contents of the registration database.

The substitute revises the required contents of a contract for a reroofing project and does not include an option for a contractor's designee to sign a written contract.

The substitute does not include:

- a requirement for TCLR to adopt by rule a code of ethics for reroofing contractors;
- provisions establishing an advisory board.