86R22537 TSR-F

By:  Capriglione, et al. H.B. No. 2101

Substitute the following for H.B. No. 2101:

By:  Martinez Fischer C.S.H.B. No. 2101

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of reroofing contractors; providing administrative and civil penalties; authorizing fees; requiring an occupational registration.

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

SECTION 1.  Title 8, Occupations Code, is amended by adding Chapter 1306 to read as follows:

CHAPTER 1306. REROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1306.001.  SHORT TITLE. This chapter may be cited as the Reroofing Contractor Registration Act.

Sec. 1306.002.  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)  "Executive director" means the executive director of the department.

(4)  "Person" means an individual or business entity.

(5)  "Registered reroofing contractor" means a reroofing contractor who is registered under this chapter and who holds a statement of registration number issued under this chapter.

(6)  "Reroofing contractor" means a person who:

(A)  engages in repairing, recovering, or replacing existing roof coverings on residential or commercial structures; or

(B)  solicits, advertises, or contracts to repair, recover, or replace existing roof coverings on residential or commercial structures.

(7)  "Reroofing project" means a project to repair, recover, or replace an existing roof covering on a residential or commercial structure.

Sec. 1306.003.  EXEMPTIONS. (a) This chapter does not apply to:

(1)  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;

(2)  an authorized employee or representative of the United States government, this state, or a county, municipality, or other political subdivision of this state acting in an official capacity;

(3)  the new construction of a residential or commercial structure;

(4)  a person performing a minor reroofing project the value of which does not exceed $500;

(5)  a person who is licensed as a retailer of manufactured homes under Chapter 1201 and is performing a reroofing project on a manufactured home as defined by Section 1201.003;

(6)  subject to Subsection (b), 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; or

(7)  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.

(b)  An individual described by Subsection (a)(6) shall operate in the name of the registered reroofing contractor and the contractor is responsible for the conduct of that individual in complying with the requirements of this chapter.

Sec. 1306.004.  APPLICATION OF CHAPTER. This chapter does not authorize a registered reroofing contractor to engage in:

(1)  the practice of engineering as defined by Section 1001.003; or

(2)  the practice of architecture as defined by Section 1051.001.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 1306.051.  GENERAL POWERS AND DUTIES. The department shall administer and enforce this chapter.

Sec. 1306.052.  RULES. (a) The commission by rule shall:

(1)  prescribe the requirements for the issuance and renewal of a registration under this chapter; and

(2)  with respect to reroofing projects on property located in an area for which the governor declares a state of disaster under Chapter 418, Government Code, provide for the issuance of a temporary emergency registration at a reduced fee.

(b)  The commission may adopt additional rules as necessary to administer this chapter.

Sec. 1306.053.  FEES. (a) Except as provided by Subsection (b), the commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

(b)  The fees adopted under this chapter must include fees for:

(1)  an initial application for registration, in an amount not to exceed $250; and

(2)  the renewal of a registration, in an amount not to exceed $100.

Sec. 1306.054.  REGISTRATION DATABASE. The department shall make available on its Internet website a publicly accessible list of all registered reroofing contractors who are in good standing. The list must be searchable by name and location. The list must contain the following for each registered reroofing contractor:

(1)  the name, mailing address, and telephone number of the reroofing contractor;

(2)  a summary of any disciplinary action taken by the department against the reroofing contractor; and

(3)  any other information required by the department.

Sec. 1306.055.  REGISTRATION VERIFICATION. (a) A county or municipal building official may not grant or approve a building or construction permit for a reroofing project unless the applicant for the permit is:

(1)  a registered reroofing contractor; or

(2)  exempt from registration under this chapter.

(b)  On request of a county or municipal building official, the department shall verify the registration of an applicant described by Subsection (a). The department shall establish a verification system to ensure a timely response to a request for verification of a registration.

SUBCHAPTER C. REGISTRATION REQUIREMENTS

Sec. 1306.101.  REGISTRATION REQUIRED. (a) Unless the person holds a registration issued under this chapter, a person may not:

(1)  perform or otherwise engage in a reroofing project; or

(2)  solicit, advertise, or contract to perform or engage in a reroofing project.

(b)  A registration under this chapter shall be issued in the form of a statement of registration number.

(c)  A registration issued under this chapter:

(1)  is valid only with respect to the person named on the registration; and

(2)  authorizes the registration holder to operate as a reroofing contractor.

(d)  A person may obtain a registration for more than one business entity. A registration is not transferable.

Sec. 1306.102.  APPLICATION FOR REGISTRATION. (a) An applicant for registration shall submit an application to the department on a form prescribed by the executive director.

(b)  The application must be accompanied by:

(1)  if the applicant is an individual, proof of the applicant's identity;

(2)  if the applicant is a business entity, proof of the applicant's existence and confirmation of authority to conduct business in this state under a certificate of status issued by the secretary of state that is in good standing;

(3)  proof of the mailing address and telephone number of the applicant's residence or business location; and

(4)  the application fee.

Sec. 1306.103.  ISSUANCE OF REGISTRATION; TERM. (a) The department shall issue a registration to an applicant who complies with the registration requirements of this chapter not later than the 10th day after the date the department receives the application.

(b)  A registration is valid for two years from the date of issuance and may be renewed before expiration in the manner provided by Section 1306.104.

Sec. 1306.104.  RENEWAL OF REGISTRATION. (a) To renew a registration, a reroofing contractor shall submit an application for renewal to the department on a form prescribed by the executive director.

(b)  The application must be accompanied by:

(1)  documentation of any changes in the reroofing contractor's information submitted to the department under Section 1306.102(b); and

(2)  the renewal fee.

SUBCHAPTER D.  PRACTICE BY REGISTRATION HOLDER

Sec. 1306.151.  DISCLOSURE OF REGISTRATION NUMBER. (a) A registered reroofing contractor shall include the contractor's registration number in each:

(1)  contract for a reroofing project in the manner provided by Section 1306.153; and

(2)  advertisement for a reroofing service by the contractor, including on each business card, flyer, or door card and in each television, radio, social media, or newspaper advertisement.

(b)  Other than the inclusion of a registration number in the manner prescribed by this section, a reroofing contractor may not make any representation or statement regarding the effect of being issued a registration under this chapter or the fact that the contractor has been issued a registration under this chapter.

Sec. 1306.152.  CERTAIN PRACTICES RELATING TO INSURANCE DEDUCTIBLES PROHIBITED. A registered reroofing contractor may not advertise or promise to pay or rebate all or part of an insurance deductible in connection with a reroofing project in violation of Section 27.02, Business & Commerce Code.

Sec. 1306.153.  CONTRACT FOR REROOFING PROJECT. (a) Before engaging in a reroofing project, a registered reroofing contractor must provide a written contract to the property owner that is signed by the reroofing contractor and the property owner.

(b)  A written contract under Subsection (a) must include:

(1)  the following statement printed in at least 12-point bold type: "The work to be performed under this contract must commence not later than the 30th day after the date the reroofing contractor collects an initial payment, unless a longer period is agreed to in writing and signed by both parties to this contract.";

(2)  the reroofing contractor's contact information, including physical address, e-mail address, and telephone number;

(3)  the reroofing contractor's policy regarding cancellation of the contract, which must be consistent with state law;

(4)  the reroofing contractor's registration number in at least 12-point bold type in the following form: "Texas Registered Reroofing Contractor Number (registration number)"; and

(5)  the department's contact information for the purpose of directing complaints to the department.

Sec. 1306.154.  COMPLIANCE WITH OTHER LAW. (a) A registered reroofing contractor shall comply with each applicable:

(1)  building code adopted by this state or a political subdivision of this state; and

(2)  order, ordinance, or rule of a political subdivision relating to the issuance of a permit for or the performance of a reroofing project in the political subdivision.

(b)  A registered reroofing contractor shall comply with Chapter 58, Business & Commerce Code, during a natural disaster, as that term is defined by Section 58.001, Business & Commerce Code.

SUBCHAPTER E. ENFORCEMENT

Sec. 1306.201.  INVESTIGATION OF COMPLAINTS. (a) The department shall investigate any complaint alleging a violation of this chapter or a rule adopted under this chapter.

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

Sec. 1306.202.  ADMINISTRATIVE PENALTY. The commission or executive director may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person is registered under this chapter, if the person violates:

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

(2)  an order of the commission or executive director.

Sec. 1306.203.  SANCTIONS. The commission may impose sanctions as provided by Section 51.353.

Sec. 1306.204.  CEASE AND DESIST ORDER. The executive director may issue a cease and desist order under Section 51.3513 to prohibit any person from performing or engaging in a reroofing project if the person is not in compliance with this chapter.

Sec. 1306.205.  CIVIL PENALTY. The attorney general or executive director may institute an action for a civil penalty under this chapter as provided by Section 51.352. The amount of a civil penalty assessed under this section may not exceed $500 for each violation.

Sec. 1306.206.  DECEPTIVE TRADE PRACTICE. A reroofing contractor who advertises that the contractor holds a registration under this chapter commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, if the reroofing contractor does not hold a valid registration issued under this chapter.

SECTION 2.  Not later than April 1, 2020, the Texas Commission of Licensing and Regulation shall adopt the rules, procedures, and fees necessary to administer Chapter 1306, Occupations Code, as added by this Act.

SECTION 3.  The Texas Department of Licensing and Regulation is not required to begin issuing registrations under Chapter 1306, Occupations Code, as added by this Act, before June 1, 2020.

SECTION 4.  (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2019.

(b)  Section 1306.101, Occupations Code, and Subchapter E, Chapter 1306, Occupations Code, as added by this Act, take effect August 1, 2020.