86R5254 TSR-F

By:  Capriglione 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; creating a criminal offense; 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)  "Advisory board" means the Reroofing Contractor Advisory Board.

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

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

(4)  "Executive director" means the executive director of the department.

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

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

(7)  "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.

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

Sec. 1306.003.  EXEMPTIONS. 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; or

(4)  a person performing a minor repair of an existing roof covering if the value of the repair does not exceed $500.

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;

(2)  adopt a code of ethics for reroofing contractors; and

(3)  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:

(A)  a temporary exception to the requirements of this chapter; and

(B)  the temporary recognition of reroofing contractors licensed or registered in good standing in another state.

(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)  the date of initial registration;

(3)  information concerning the reroofing contractor's insurance coverage, if reported by the reroofing contractor;

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

(5)  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.

Sec. 1306.056.  ADVISORY BOARD. (a) The Reroofing Contractor Advisory Board shall advise the commission in adopting rules under this chapter.

(b)  The advisory board consists of seven members appointed by the executive director as follows:

(1)  three reroofing contractors;

(2)  one member of the board of directors of the Roofing Contractors Association of Texas, or a successor organization;

(3)  one county or municipal building official in this state; and

(4)  two members who represent the public.

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

(d)  Members of the advisory board serve three-year terms.

(e)  Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory board.

(f)  Advisory board members may not receive compensation for serving as a member.

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.  EXEMPTION FROM REGISTRATION. (a) A person is not required to be registered under this chapter if:

(1)  subject to Subsection (b), the person is a sales manager, project manager, or other person employed or otherwise used by a registered reroofing contractor in the ordinary course of the contractor's business if the person does not engage in repairing, recovering, or replacing an existing roof covering; or

(2)  the person engages in repairing, recovering, or replacing an existing roof covering as an employee of or under contract with a registered reroofing contractor and the person is not involved in soliciting, advertising, or executing contracts for the contractor.

(b)  A person described by Subsection (a)(1) shall operate in the name of the registered reroofing contractor. The reroofing contractor is responsible for the conduct of that person in complying with the requirements of this chapter.

Sec. 1306.103.  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. 1306.104.  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 14th 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 1306.105.

Sec. 1306.105.  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 1306.103(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 or the contractor's designee 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; and

(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)."

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.

(c)  The registered reroofing contractor's contract cancellation policy must be consistent with state law.

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.  CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

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

(c)  If the conduct constituting an offense under this section also constitutes an offense under Section 32.42(b)(12), Penal Code, the person may be prosecuted under either section or under both sections.

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.  The Texas Commission of Licensing and Regulation shall adopt rules necessary to implement Chapter 1306, Occupations Code, as added by this Act, not later than January 1, 2020.

SECTION 3.  The Texas Department of Licensing and Regulation shall begin issuing registrations under Chapter 1306, Occupations Code, as added by this Act, not later than March 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 Subchapters D and E, Chapter 1306, Occupations Code, as added by this Act, take effect March 1, 2020.