

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

1 ordinary course of the contractor's business if the individual does
2 not otherwise engage in repairing, recovering, or replacing
3 existing roof coverings on residential or commercial structures; or

4 (7) an individual who otherwise engages in repairing,
5 recovering, or replacing existing roof coverings on residential or
6 commercial structures as an employee of or under contract with a
7 registered reroofing contractor if the individual is not involved
8 in soliciting, advertising, or executing contracts for the
9 contractor.

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

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

16 (1) the practice of engineering as defined by Section
17 [1001.003](#); or

18 (2) the practice of architecture as defined by Section
19 [1051.001](#).

20 SUBCHAPTER B. POWERS AND DUTIES

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

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

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

26 (2) with respect to reroofing projects on property
27 located in an area for which the governor declares a state of

1 disaster under Chapter 418, Government Code, provide for the
2 issuance of a temporary emergency registration at a reduced fee.

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

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

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

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

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

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

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

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

24 (3) any other information required by the department.

25 Sec. 1306.055. REGISTRATION VERIFICATION. (a) A county or
26 municipal building official may not grant or approve a building or
27 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

1 department on a form prescribed by the executive director.

2 (b) The application must be accompanied by:

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

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

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

11 (4) the application fee.

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

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

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

24 (b) The application must be accompanied by:

25 (1) documentation of any changes in the reroofing
26 contractor's information submitted to the department under Section
27 1306.102(b); and

1 (2) the renewal fee.

2 SUBCHAPTER D. PRACTICE BY REGISTRATION HOLDER

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

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

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

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

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

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

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

27 (1) the following statement printed in at least

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

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

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

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

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

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

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

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

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

26 SUBCHAPTER E. ENFORCEMENT

27 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

1 registration issued under this chapter.

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

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

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

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