

By: Capriglione

H.B. No. 3151

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. TEXAS BOARD ON 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. PURPOSE AND LEGISLATIVE FINDINGS. (a) This legislature finds that:

(1) there is a growing need to provide state residents with safe, affordable, and well-constructed replacement roofs;

(2) the reroofing industry requires regulation to ensure safe working conditions for its contractors and best protections for reroofing consumers;

(3) statutes and rules in effect before September 1, 2019, were inadequate to:

(A) fully protect the consumer; and

(B) prevent the construction of poorly made replacement roofs;

(4) there is a need for the state of Texas to oversee

1 and register reroofing contractors and to regulate the reroofing
2 construction industry.

3 (b) The purposes of this chapter are to:

4 (1) encourage the construction of safe roofing for
5 state residents; and

6 (2) improve the general welfare and safety of
7 purchasers and consumers of roofing construction.

8 (c) This chapter shall be liberally construed to promote its
9 policies and accomplish its purposes.

10 Sec. 1306.003. DEFINITIONS. In this chapter:

11 (1) "Board" means the Texas Board on Reroofing
12 Contractors.

13 (2) "Executive director" means the executive director
14 of the Texas Board on Reroofing Contractors.

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

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

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

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

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

27 (8) "Reroofing project" means a project to repair,

1 recover, or replace an existing roof covering on a residential or
2 commercial structure.

3 Sec. 1306.004. EXEMPTIONS. This chapter does not apply to:

4 (1) an owner of residential property or property
5 primarily used for agricultural purposes, or an employee of the
6 owner, who performs a reroofing project on the owner's property;

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

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

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

15 SUBCHAPTER B. POWERS AND DUTIES

16 Sec. 1306.050. TEXAS BOARD ON REROOFING CONTRACTORS. (a)
17 The Texas Board on Reroofing Contractors shall consists of seven
18 members appointed by the governor as follows:

19 (1) four reroofing contractors;

20 (2) one county or municipal building official in this
21 state; and

22 (3) two members who represent the public.

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

26 (c) Members of the board serve three-year terms.

27 Sec. 1306.051. GENERAL POWERS AND DUTIES. The board shall

1 administer and enforce this chapter.

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

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

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

7 (3) with respect to reroofing projects on property
8 located in an area for which the governor declares a state of
9 disaster under Chapter 418, Government Code, provide for:

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

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

15 (b) The board may adopt additional rules as necessary to
16 administer this chapter.

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

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

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

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

27 Sec. 1306.054. REGISTRATION DATABASE. The board shall make

1 available on its Internet website a publicly accessible list of all
2 registered reroofing contractors who are in good standing. The list
3 must be searchable by name and location. The list must contain the
4 following for each registered reroofing contractor:

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

7 (2) the date of initial registration;

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

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

12 (5) any other information required by the board.

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

17 (1) a registered reroofing contractor; or

18 (2) exempt from registration under this chapter.

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

24 Sec. 1306.056. EXECUTIVE DIRECTOR AND STAFF. (a) The board
25 shall employ an executive director as the executive head of the
26 agency.

27 (b) The board may employ personnel as necessary to

1 administer this chapter. The board may determine the compensation
2 and duties of its employees and the terms of their employment.

3 SUBCHAPTER C. REGISTRATION REQUIREMENTS

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

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

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

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

13 (c) A registration issued under this chapter:

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

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

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

20 Sec. 1306.102. EXEMPTION FROM REGISTRATION. (a) A person
21 is not required to be registered under this chapter if:

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

27 (2) the person engages in repairing, recovering, or

1 replacing an existing roof covering as an employee of or under
2 contract with a registered reroofing contractor and the person is
3 not involved in soliciting, advertising, or executing contracts for
4 the contractor.

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

9 Sec. 1306.103. APPLICATION FOR REGISTRATION. (a) An
10 applicant for registration shall submit an application to the board
11 on a form prescribed by the executive director.

12 (b) The application must be accompanied by:

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

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

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

21 (4) the application fee.

22 Sec. 1306.104. ISSUANCE OF REGISTRATION; TERM. (a) The
23 board shall issue a registration to an applicant who complies with
24 the registration requirements of this chapter not later than the
25 14th day after the date the board receives the application.

26 (b) A registration is valid for two years from the date of
27 issuance and may be renewed before expiration in the manner

1 provided by Section 1306.105.

2 Sec. 1306.105. RENEWAL OF REGISTRATION. (a) To renew a
3 registration, a reroofing contractor shall submit an application
4 for renewal to the board on a form prescribed by the executive
5 director.

6 (b) The application must be accompanied by:

7 (1) documentation of any changes in the reroofing
8 contractor's information submitted to the board under Section
9 1306.103(b); and

10 (2) the renewal fee.

11 SUBCHAPTER D. PRACTICE BY REGISTRATION HOLDER

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

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

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

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

26 Sec. 1306.152. CERTAIN PRACTICES RELATING TO INSURANCE
27 DEDUCTIBLES PROHIBITED. A registered reroofing contractor may not

1 advertise or promise to pay or rebate all or part of an insurance
2 deductible in connection with a reroofing project in violation of
3 Section 27.02, Business & Commerce Code.

4 Sec. 1306.153. CONTRACT FOR REROOFING PROJECT. (a) Before
5 engaging in a reroofing project, a registered reroofing contractor
6 must provide a written contract to the property owner that is signed
7 by the reroofing contractor or the contractor's designee and the
8 property owner.

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

10 (1) the following statement printed in at least
11 12-point bold type: "The work to be performed under this contract
12 must commence not later than the 30th day after the date the
13 reroofing contractor collects an initial payment, unless a longer
14 period is agreed to in writing and signed by both parties to this
15 contract.";

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

18 (3) the reroofing contractor's policy regarding
19 cancellation of the contract; and

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

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

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

27 (2) order, ordinance, or rule of a political

1 subdivision relating to the issuance of a permit for or the
2 performance of a reroofing project in the political subdivision.

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

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

8 SUBCHAPTER E. ENFORCEMENT

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

12 (b) A complaint must be filed in a manner prescribed by the
13 board.

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

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

19 or

20 (2) an order of the board or executive director.

21 Sec. 1306.203. SANCTIONS. The board may impose sanctions
22 as provided by Section 51.353.

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

27 Sec. 1306.205. CRIMINAL PENALTY. (a) A person commits an

1 offense if the person violates this chapter.

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

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

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

13 SECTION 2. The Texas Board on Reroofing Contractors shall
14 adopt rules necessary to implement Chapter 1306, Occupations Code,
15 as added by this Act, not later than January 1, 2020. The Texas
16 Board on Reroofing Contractors shall begin issuing registrations
17 under Chapter 1306, Occupations Code, as added by this Act, not
18 later than March 1, 2020.

19 SECTION 3. (a) Except as provided by Subsection (b) of this
20 section, this Act takes effect September 1, 2019.

21 (b) Section 1306.101, Occupations Code, and Subchapters D
22 and E, Chapter 1306, Occupations Code, as added by this Act, take
23 effect March 1, 2020.