

By: Capriglione

H.B. No. 3156

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 20, Insurance Code, is amended by adding Chapter 6004 to read as follows:

CHAPTER 6004. REROOFING CONTRACTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 6004.001. SHORT TITLE. This chapter may be cited as the Reroofing Contractor Registration Act.

Sec. 6004.002. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Reroofing Contractor Advisory Board.

(2) "Commissioner" means the Texas Commissioner of Insurance.

(3) "Department" means the Texas Department of Insurance.

(4) "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:

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

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

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

10 Sec. 6004.003. EXEMPTIONS. This chapter does not apply to:

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

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

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

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

22 SUBCHAPTER B. POWERS AND DUTIES

23 Sec. 6004.051. GENERAL POWERS AND DUTIES. The department
24 shall administer and enforce this chapter.

25 Sec. 6004.052. RULES. (a) The commissioner by rule shall:

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

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

2 and

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

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

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

11 (b) The commissioner may adopt additional rules as
12 necessary to administer this chapter.

13 Sec. 6004.053. FEES. (a) Except as provided by Subsection
14 (b), the commissioner shall establish and collect reasonable and
15 necessary fees in amounts sufficient to cover the costs of
16 administering this chapter by the department.

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

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

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

23 Sec. 6004.054. DEPOSIT IN OPERATING ACCOUNT. All fees
24 collected under this chapter shall be deposited in the state
25 treasury to the credit of the Texas Department of Insurance
26 operating account for use in administering this chapter.

27 Sec. 6004.055. REGISTRATION DATABASE. The department shall

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

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

13 Sec. 6004.055. 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 department shall verify the registration of an applicant
21 described by Subsection (a). The department shall establish a
22 verification system to ensure a timely response to a request for
23 verification of a registration.

24 Sec. 6004.056. ADVISORY BOARD. (a) The Reroofing
25 Contractor Advisory Board shall advise the commissioner in adopting
26 rules under this chapter.

27 (b) The advisory board consists of seven members appointed

1 by the commissioner as follows:

2 (1) four reroofing contractors;

3 (2) the county or municipal building official in this
4 state; and

5 (3) two members who represent the public.

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

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

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

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

14 SUBCHAPTER C. REGISTRATION REQUIREMENTS

15 Sec. 6004.101. REGISTRATION REQUIRED. (a) Unless the
16 person holds a registration issued under this chapter, a person may
17 not:

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

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

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

24 (c) A registration issued under this chapter:

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

27 (2) authorizes the registration holder to operate as a

1 reroofing contractor.

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

4 Sec. 6004.102. EXEMPTION FROM REGISTRATION. (a) A person
5 is not required to be registered under this chapter if:

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

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

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

20 Sec. 6004.103. APPLICATION FOR REGISTRATION. (a) An
21 applicant for registration shall submit an application to the
22 department on a form prescribed by the department.

23 (b) The application must be accompanied by:

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

26 (2) if the applicant is a business entity, proof of the
27 applicant's existence and confirmation of authority to conduct

1 business in this state under a certificate of status issued by the
2 secretary of state that is in good standing;

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

5 (4) the application fee.

6 Sec. 6004.104. ISSUANCE OF REGISTRATION; TERM. (a) The
7 department shall issue a registration to an applicant who complies
8 with the registration requirements of this chapter not later than
9 the 14th day after the date the department receives the
10 application.

11 (b) A registration is valid for two years from the date of
12 issuance and may be renewed before expiration in the manner
13 provided by Section 6004.105.

14 Sec. 6004.105. RENEWAL OF REGISTRATION. (a) To renew a
15 registration, a reroofing contractor shall submit an application
16 for renewal to the department on a form prescribed by the executive
17 director.

18 (b) The application must be accompanied by:

19 (1) documentation of any changes in the reroofing
20 contractor's information submitted to the department under Section
21 6004.103(b); and

22 (2) the renewal fee.

23 SUBCHAPTER D. PRACTICE BY REGISTRATION HOLDER

24 Sec. 6004.151. DISCLOSURE OF REGISTRATION NUMBER. (a) A
25 registered reroofing contractor shall include the contractor's
26 registration number in each:

27 (1) contract for a reroofing project in the manner

1 provided by Section 6004.153; and

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

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

11 Sec. 6004.152. CERTAIN PRACTICES RELATING TO INSURANCE
12 DEDUCTIBLES PROHIBITED. A registered reroofing contractor may not
13 advertise or promise to pay or rebate all or part of an insurance
14 deductible in connection with a reroofing project in violation of
15 Section 27.02, Business & Commerce Code.

16 Sec. 6004.153. CONTRACT FOR REROOFING PROJECT. (a) Before
17 engaging in a reroofing project, a registered reroofing contractor
18 must provide a written contract to the property owner that is signed
19 by the reroofing contractor or the contractor's designee and the
20 property owner.

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

22 (1) the following statement printed in at least
23 12-point bold type: "The work to be performed under this contract
24 must commence not later than the 30th day after the date the
25 reroofing contractor collects an initial payment, unless a longer
26 period is agreed to in writing and signed by both parties to this
27 contract.";

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

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

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

8 Sec. 6004.154. COMPLIANCE WITH OTHER LAW. (a) A registered
9 reroofing contractor shall comply with each applicable:

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

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

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

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

20 SUBCHAPTER E. ENFORCEMENT

21 Sec. 6004.201. INVESTIGATION OF COMPLAINTS. (a) The
22 department shall investigate any complaint alleging a violation of
23 this chapter or a rule adopted under this chapter.

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

26 Sec. 6004.202. ADMINISTRATIVE PENALTY. The commissioner or
27 department may impose an administrative penalty on a person under

1 Subchapter F, Chapter 51, regardless of whether the person is
2 registered under this chapter, if the person violates:

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

4 or

5 (2) an order of the commissioner or department.

6 Sec. 6004.203. SANCTIONS. The commissioner or department
7 may impose sanctions as provided by Section 51.353.

8 Sec. 6004.204. CEASE AND DESIST ORDER. The commissioner or
9 department may issue a cease and desist order under Section 51.3513
10 to prohibit any person from performing or engaging in a reroofing
11 project if the person is not in compliance with this chapter.

12 Sec. 6004.205. CRIMINAL PENALTY. (a) A person commits an
13 offense if the person violates this chapter.

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

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

19 Sec. 6004.206. DECEPTIVE TRADE PRACTICE. A reroofing
20 contractor who advertises that the contractor holds a registration
21 under this chapter commits a false, misleading, or deceptive act or
22 practice within the meaning of Section 17.46, Business & Commerce
23 Code, if the reroofing contractor does not hold a valid
24 registration issued under this chapter.

25 SECTION 2. The Texas Department of Insurance shall adopt
26 rules necessary to implement Chapter 6004, Insurance Code, as added
27 by this Act, not later than January 1, 2020.

1 SECTION 3. The Texas Department of Insurance shall begin
2 issuing registrations under Chapter 6004, Insurance Code, as added
3 by this Act, not later than March 1, 2020.

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

6 (b) Section 6004.101, Insurance Code, and Subchapters D and
7 E, Chapter 6004, Insurance Code, as added by this Act, take effect
8 March 1, 2020.