

By: Pacheco

H.B. No. 2777

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

1 replacing existing roof coverings on residential or commercial
2 structures; or

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

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

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

11 (1) a laborer or other individual who repairs,
12 recovers, or replaces existing roof coverings on residential or
13 commercial structures as an employee of or under contract with a
14 registered reroofing contractor;

15 (2) a sales manager, project manager, administrative
16 assistant, or any other individual employed or otherwise engaged by
17 a registered reroofing contractor in the ordinary course of the
18 contractor's business;

19 (3) an owner of residential property or property
20 primarily used for agricultural purposes, or an employee of the
21 owner, who performs a reroofing project on the owner's property;

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

26 (5) a person who constructs new residential or
27 commercial structures; or

1 (6) a person who is licensed as a retailer of
2 manufactured homes under Chapter 1201 and is performing a reroofing
3 project on a manufactured home as defined by Section 1201.003.

4 (b) An individual who is exempt under Subsection (a)(1) or
5 (2) must operate in the name of the registered reroofing
6 contractor, and the contractor is responsible for the conduct of
7 the individual while the individual performs or otherwise engages
8 in the reroofing project.

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

11 (1) the practice of engineering as defined by Section
12 1001.003; or

13 (2) the practice of architecture as defined by Section
14 1051.001.

15 SUBCHAPTER B. POWERS AND DUTIES

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

18 Sec. 1306.052. RULES. The commission by rule shall:

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

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

25 Sec. 1306.053. FEES. (a) Except as provided by Subsection
26 (b), the commission shall establish and collect reasonable and
27 necessary fees in amounts not to exceed a total amount sufficient to

1 cover the state's costs of administering this chapter.

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

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

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

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

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

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

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

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

22 (1) a registered reroofing contractor; or

23 (2) exempt from registration under this chapter.

24 (b) On request of a county or municipal building official,
25 the department shall verify the registration of an applicant
26 described by Subsection (a)(1). The department shall establish a
27 verification system to ensure a timely response to a request for

1 verification of a registration.

2 SUBCHAPTER C. REGISTRATION REQUIREMENTS

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

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

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

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

12 (c) A registration issued under this chapter:

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

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

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

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

22 (b) The application must be accompanied by:

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

25 (2) if the applicant is a business entity, proof of the
26 applicant's existence and confirmation of authority to conduct
27 business in this state under a certificate of status issued by the

1 secretary of state that is in good standing;

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

4 (4) the application fee.

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

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

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

17 (b) The application must be accompanied by:

18 (1) documentation of any changes in the reroofing
19 contractor's information submitted to the department under Section
20 1306.102(b); and

21 (2) the renewal fee.

22 SUBCHAPTER D. PRACTICE BY REGISTRATION HOLDER

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

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

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

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

10 Sec. 1306.152. CERTAIN PRACTICES RELATING TO INSURANCE
11 DEDUCTIBLES PROHIBITED; REVOCATION OF REGISTRATION. (a) A
12 registered reroofing contractor may not advertise or promise to
13 pay, rebate, waive, absorb, or otherwise not collect all or part of
14 an insurance deductible in connection with a reroofing project in
15 violation of Section 27.02, Business & Commerce Code.

16 (b) A reroofing contractor who violates Subsection (a) is
17 subject to revocation of the contractor's registration, and the
18 contractor is ineligible for registration under this chapter before
19 the first anniversary of the date the registration is revoked.

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

24 (b) The written contract must include:

25 (1) the following statement printed in at least
26 12-point bold type: "The work to be performed under this contract
27 must commence not later than the 30th day after the date the

1 reroofing contractor collects an initial payment, unless a longer
2 period is agreed to in writing and signed by both parties to this
3 contract.";

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

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

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

12 (5) the department's contact information for
13 complaints directed to the department.

14 SUBCHAPTER E. ENFORCEMENT

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

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

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

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

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

27 Sec. 1306.203. ADMINISTRATIVE SANCTIONS. The commission

1 may impose sanctions as provided by Section 51.353.

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

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

12 SECTION 2. Not later than April 1, 2022, the Texas
13 Commission of Licensing and Regulation shall adopt the rules,
14 procedures, and fees necessary to administer Chapter 1306,
15 Occupations Code, as added by this Act.

16 SECTION 3. The Texas Department of Licensing and Regulation
17 is not required to begin issuing registrations under Chapter 1306,
18 Occupations Code, as added by this Act, before June 1, 2022.

19 SECTION 4. (a) Except as provided by Subsection (b) of this
20 section, this Act takes effect September 1, 2021.

21 (b) Section 1306.101, Occupations Code, and Subchapter E,
22 Chapter 1306, Occupations Code, as added by this Act, take effect
23 August 1, 2022.