

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1043

By: Sullivan (John) and
Bastin

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; enacting the Oklahoma Roofing Industry Licensing Act; providing short title; stating public policy; defining terms; creating the Roofing Industry Licensing Committee; providing for membership; providing for qualifications of members; providing for terms, removal, vacancies, expenses, offices, duties, quorums, and meetings; providing for powers and duties of the State Department of Health; providing for powers and duties of the Roofing Industry Licensing Committee; providing procedures, qualifications and duties for obtaining certain licenses; providing for certain applications for licenses; requiring the license number to be affixed to certain documents, vehicles and places; requiring the posting of such license; providing for the validity, expiration, renewal and fees for such license; requiring certain forms; requiring the Board to set fees by rule; requiring certain information to be public record; providing exception; requiring certain notification of certain changes; stating that such public record be prima facie evidence in certain proceedings; prohibiting certain acts; providing penalties; providing for certain disciplinary actions; authorizing the assessment of administrative fines; listing certain causes for disciplinary actions; providing for returned checks, and penalties related thereto; providing for certain notification, revocation or denial of licenses and reissuance of such licenses; providing for reissuance fees; authorizing the waiver of such fees under certain conditions; providing for a hearing board; authorizing certain investigation and hearings, and procedures related thereto; requiring any hearing to be in accordance with the Administrative Procedures Act; authorizing certain application for a new license; specifying certain administrative fines; providing for the deposit of such fines and payments of any type; providing for procedures and expenditures related to such monies; prohibiting unlicensed persons from engaging in the roofing industry practice; providing for the suspension of licenses without hearing under certain conditions; requiring the preservation of certain records; authorizing certain appeals and providing for procedures related thereto; authorizing the enjoinder of certain violation and providing procedures related thereto; providing certain exception to the Oklahoma Roofing Industry License Act; requiring certain officials to verify licensure; requiring certain public officials to verify licensure prior to awarding contracts;

providing for codification; providing an effective date;
and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3000 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Roofing Industry Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3001 of Title 59, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the public policy of this state that in order to safeguard the life, health, property, and public welfare of its citizens, the business of roofing construction, reconstruction, alteration, maintenance, repair, and waterproofing is a matter affecting the public interest, and that any person desiring to obtain a license to engage in the roofing business shall be required to establish such person's qualifications to be licensed pursuant to the Oklahoma Roofing Industry Licensing Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3002 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Roofing Industry Licensing Act, unless the context otherwise requires:

1. "Board" means the State Board of Health;
2. "Committee" means the Roofing Industry Licensing Committee which shall act in an advisory capacity to the Board and also act and be referred to as the hearing board;
3. "Commissioner" means the State Commissioner of Health;
4. "Department" means the State Department of Health;
5. "Licensure" means the act of obtaining or holding a license from the Board as provided for in the Oklahoma Roofing Industry Licensing Act;

6. "Person" means an individual, firm, partnership, copartnership, association, corporation, organization, business trust or other legal entity;

7. "Roofing contractor" means a person whose services consist of performance in the roofing trade in whole or in part and who has the experience, knowledge, and skill to construct, reconstruct, alter, maintain, repair, and waterproof roofs, and use materials and items used in the construction, reconstruction, alteration, maintenance, repair, and waterproofing of all kinds of roofing, all in such manner as to comply with all plans, specifications, codes, laws, and rules applicable thereto.

"Roofing contractor" does not include such contractor's employees unless the requirements of the Oklahoma Roofing Industry Licensing Act specifically apply and extend to such employees;

8. "Repair" means to mend, remedy, renovate, and to restore a roof to a sound or permanent state after decay, injury, dilapidation, or partial destruction; and

9. "Temporary repair" means any roof repair which is to only last for a short and limited time and which is necessary to mitigate or prevent damage to real property pending a permanent repair thereof.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3003 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created until July 1, 2003, in accordance with the Oklahoma Sunset Law, the "Roofing Industry Licensing Committee", which shall consist of five (5) members. One member shall be the State Commissioner of Health or designee and four members shall be appointed on or before August 1, 1997, by the State Board of Health. Three of the appointed members shall have at least ten (10) years of experience in the roofing industry. One of the appointed members shall be a lay person. No member shall be employed by the same person as any other member of the Committee.

Except for the initial appointees, the term of office of each appointed member shall be four (4) years. The terms of the initial appointed members of the Committee shall be as follows:

1. One member shall be appointed to a term ending June 30, 1999;
2. One member shall be appointed to a term ending June 30, 2000;
3. One member shall be appointed to a term ending June 30, 2001; and
4. One member shall be appointed to a term ending June 30, 2002.

Provided further, each appointed member shall hold office until the member's successor is appointed and has qualified pursuant to the Oklahoma Roofing Industry Licensing Act.

Members of the Committee may be removed from office by the Board for cause.

Vacancies shall be filled by appointment by the Board for the unexpired term of the vacancy.

The members of the Committee shall serve without pay but may be reimbursed for actual expenses incurred pursuant to the State Travel Reimbursement Act.

The Committee shall elect from among its membership a chairperson, vice-chairperson, and secretary to serve terms of not more than two (2) years ending on June 30 of the year designated by the Committee. The chairperson or vice-chairperson shall preside at all meetings. The chairperson, vice-chairperson, and secretary shall perform the duties as may be decided by the Committee in order to effectively administer the Oklahoma Roofing Industry Licensing Act.

A majority of Committee members appointed shall constitute a quorum to transact official business.

The Committee shall meet on or before September 1, 1997, and shall meet thereafter at such times as the chairperson or the Committee deems necessary to implement the Oklahoma Roofing Industry Licensing Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3004 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Department, pursuant to the rules of the Board and request of the Committee, shall have the power and duty to:

1. Provide personnel for the physical and technical issuance, renewal, suspension, revocation, modification, or denial of licenses to engage in roofing work pursuant to the Oklahoma Roofing Industry Licensing Act;
2. Upon request of the Committee or the Board, enter upon public and private property for the purpose of inspecting licenses and roofing work for compliance with the provisions of the Oklahoma Roofing Industry Licensing Act and the rules of the Board promulgated thereto;
3. Employ personnel to conduct investigations and inspections;
4. Upon request of the Committee or the Board, enforce the rules promulgated pursuant to the Oklahoma Roofing Industry Licensing Act;
5. Upon request of the Committee or the Board, investigate complaints and assist in the holding of hearings;
6. Upon request of the Committee or the Board, assist in the initiation of disciplinary proceedings, requests of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of the Oklahoma Roofing Industry Licensing Act or any rule promulgated pursuant to the Oklahoma Roofing Industry Licensing Act;
7. Upon request of the Committee or the Board, assist in the levying of administrative fines, not to exceed One Thousand Dollars (\$1,000.00) for each violation, against any person who violates any of the provisions of the Oklahoma Roofing Industry Licensing Act or any rule promulgated pursuant to the Oklahoma Roofing Industry Licensing Act;
8. Upon request of the Committee or the Board, conduct investigations into the qualifications of applicants for licensure; and

9. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Oklahoma Roofing Industry Licensing Act and the rules of the Board promulgated thereto.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3005 of Title 59, unless there is created a duplication in numbering, reads as follows:

In addition to other duties required by the Oklahoma Roofing Industry Licensing Act, the Roofing Industry Licensing Committee, pursuant to the rules of the Board, shall have the following powers and duties:

1. Assist the State Board of Health in licensing and otherwise regulating persons engaged in a roofing industry business;
2. Determine qualifications of applicants pursuant to the Oklahoma Roofing Industry Licensing Act;
3. Prescribe and adopt forms for license applications and initiate mailing of the application forms to all persons requesting the applications. Such form shall include but not be limited to an affidavit of good standing signed by the applicant as prescribed by the rules promulgated by the Board;
4. Assist and advise the Board in the reprimand of a licensee, and the issuance, denial, suspension, or revocation of licenses as provided for by the Oklahoma Roofing Industry Licensing Act;
5. Assist and advise the Board in the charging and collecting of such fees as are prescribed by the Oklahoma Roofing Industry Licensing Act and the rules promulgated thereunder;
6. Assist and advise the Board in formulating and enforcing rules governing the materials, services, conduct, and all other matters of the licensees and their employees in regard to the roofing industry and the administration of the Oklahoma Roofing Industry Licensing Act;
7. Investigate or request the investigation of alleged violations of the provisions of the Oklahoma Roofing Industry

Licensing Act and of any rules promulgated by the Board thereunder;

8. Assist the Board in providing for grievance and appeal procedures pursuant to the Administrative Procedures Act for any person whose license is denied, revoked, or suspended;

9. Assist and advise the Board in establishing and levying administrative fines against any person who willfully or otherwise violates any provision of the Oklahoma Roofing Industry Licensing Act; and

10. Have such other powers and duties as are necessary to implement the Oklahoma Roofing Industry Licensing Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3006 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. To obtain a license, an applicant shall submit a written application to the Committee on a form prescribed by the Committee accompanied by the required fee.

B. An applicant for a license to roof only single-family dwellings shall submit satisfactory evidence that such applicant:

1. Has obtained public liability and property damage insurance in such amounts and under such circumstances as may be determined by the Committee;

2. Has obtained workers' compensation insurance covering the applicant's employees or is approved as a self-insurer of workers' compensation in accordance with Oklahoma law;

3. Has proof of possession of a Federal Tax ID Number and a State of Oklahoma Employment Security Commission identification number; and

4. Has financial solvency. "Financial solvency" for this purpose means the applicant must provide a surety bond, or an approved alternative as determined by the Committee, in the amount of Five Thousand Dollars (\$5,000.00). The following requirements must be met before any surety bond can be accepted:

a. the name on the bond must correspond exactly to the information on the application,

b. the bond must be the correct amount,

- c. original bonds must be submitted to the Committee - copies are not accepted,
- d. the license number block on the bond form should read "pending" or remain blank if the bond is for a new license, and
- e. bonds are not transferable.

C. An applicant for a license for the purposes of roofing any building other than a single-family dwelling shall submit satisfactory evidence that the applicant has complied with the provisions of Sections 1701 through 1707 of Title 68 of the Oklahoma Statutes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3007 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. When an individual proposes to do business in the individual's own name, licensure, when granted, shall be issued only to that individual.

B. If the applicant is proposing to qualify a firm, partnership, copartnership, association, corporation, organization, business trust, or other legal entity, application shall be made for each such entity and shall state the name of the firm, partnership or copartnership and of its partners, the name of the corporation, association, or organization and of its officers and directors, the name of the business trust and its trustees, or the name of such other legal entity and its members, and furnish evidence of compliance with any statutory requirements pertaining to such legal entity, including compliance with any laws pertaining to the use of fictitious names, if a fictitious name is used. The application shall also show that the person applying for the licensure is legally qualified to act for the legal entity in all matters connected with its roofing contracting business and that the person has authority to supervise roofing operations undertaken by such legal entities.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3008 of Title 59, unless there is created a duplication in numbering, reads as follows:

Each state-licensed roofing contractor shall affix the contractor's license number to all of the contractor's contracts and bids. In addition, the official issuing building permits shall affix the roofing license number to each application for a building permit involving roofing and on each such building permit issued and recorded.

In addition, every roofing contractor shall affix the roofing license number and the licensee's name on all vehicles used as part of the contractor's business as a roofing contractor.

The licensee's name and license number shall be posted at each of the roofing contractor's places of business and on all roofing projects for public view.

Every holder of a license shall display the license in a conspicuous place in the licensee's principal office, place of business, or employment.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3009 of Title 59, unless there is created a duplication in numbering, reads as follows:

A license shall become valid after approval of the application.

Licenses shall expire annually at midnight on June 30.

Failure to renew the license prior to its expiration shall cause the license to become invalid and it shall be unlawful thereafter for any licensee to engage, offer to engage, or hold himself or herself out as engaging in the roofing contracting business under the license unless and until the license is renewed.

A license which is invalid because of failure to renew shall be renewed on payment of the proper renewal fee, if the application for renewal is made prior to October 1. If the application for renewal is not made prior to October 1, the fee for renewal shall be equal to the original application fee.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3010 of Title 59,

unless there is created a duplication in numbering, reads as follows:

The initial application fee for a license shall be fixed by the Board by rule upon advice of the Committee, but shall not exceed One Hundred Fifty Dollars (\$150.00).

If an applicant for initial licensure applies for licensure during the second half of the annual period, the applicant shall only be required to pay one-half (1/2) of the amount fixed by the Board for initial application.

Any change of the license that requires the issuance of a new license shall be completed on a form prescribed and adopted by the Committee, accompanied by a handling fee of Twenty Dollars (\$20.00).

The annual renewal fee shall be fixed by the Board by rule upon advice of the Committee, in an amount not to exceed one-half (1/2) of the initial application fee.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3011 of Title 59, unless there is created a duplication in numbering, reads as follows:

All information required by the Board, upon recommendation of the Committee, of any applicant for licensure shall be public record, except financial information.

If a license holder changes the licensee's name style, address or employment from that which appears on the licensee's current license, the licensee shall notify the Committee of the change within thirty (30) days after it occurs. It is the responsibility of the licensee to provide the Committee notice, in writing, of any changes in the information requested on the application.

All public records of the Committee, when duly certified by the Commissioner, shall be received as prima facie evidence in any state administrative or judicial proceeding.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3012 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It is unlawful and a violation of the Oklahoma Roofing Industry Licensing Act:

1. For any person to engage in the roofing business or act in the capacity of a roofing contractor without having been duly licensed pursuant to the provisions of the Oklahoma Roofing Industry Licensing Act;

2. For any work involving the construction, reconstruction, alteration, maintenance, repair, or waterproofing of any kind of roofing to be done except by a roofing contractor licensed pursuant to the Oklahoma Roofing Industry Licensing Act;

3. For any two or more persons to jointly submit a bid or enter into a contract for roofing as a joint venture unless all parties to the joint venture are licensed pursuant to the Oklahoma Roofing Industry Licensing Act; or

4. For a person to subcontract any part of a roofing bid or roofing contract, labor, or otherwise, to another person unless that person has been duly licensed under the provisions of the Oklahoma Roofing Industry Licensing Act.

B. Any person who violates any provision of the Oklahoma Roofing Industry Licensing Act, upon final conviction, shall be guilty of a misdemeanor and shall be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for each separate offense. Each day of violation constitutes a separate offense. Upon notification to the Committee by the court, any licensed roofing contractor found guilty of a violation of any provision of the Oklahoma Roofing Industry Licensing Act may have such licensee's license revoked by the Board.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3013 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board, upon recommendation of the Committee, may refuse to issue or to renew, or may revoke or suspend a license, or place a licensee on probation, reprimand or take other disciplinary action as the Committee may deem proper, including the assessment of

administrative fines not to exceed One Thousand Dollars (\$1,000.00) for each violation, with regard to any licensee for any one or combination of the following causes:

1. Termination of workers' compensation insurance, public liability or property damage insurance as set out in the Oklahoma Roofing Industry Licensing Act;
2. Violation of the Oklahoma Roofing Industry Licensing Act or its rules;
3. Conviction of any felony offense under the laws of any jurisdiction or the United States or any misdemeanor, an essential element of which is dishonesty, or of any criminal offense which directly relates to the practice of the roofing profession;
4. Making any misrepresentation for the purpose of obtaining a license pursuant to the Oklahoma Roofing Industry Licensing Act;
5. Professional incompetence or gross negligence in the practice of roofing;
6. Gross malpractice, prima facie evidence of which may be a conviction or judgment of malpractice in any court of competent jurisdiction;
7. Aiding or assisting another person in violation of any provision of the Oklahoma Roofing Industry Licensing Act or its rules;
8. Failing, within thirty (30) days, to provide information in response to a written request made by the Committee which has been sent by certified or registered mail to the address provided on the application of the licensee or notification of change of address provided by the licensee;
9. Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;
10. Habitual or excessive use of or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice roofing with reasonable judgment, skill, or safety;
11. Discipline by another jurisdiction within the United States or foreign nation, if at least one of the grounds for the

discipline is the same or substantially equivalent to those set forth in the Oklahoma Roofing Industry Licensing Act;

12. Directly or indirectly giving to or receiving from any person any fee, commission, rebate, or other form of compensation for any professional services not actually or personally rendered;

13. A finding by the Committee that the licensee, after having such licensee's license placed on probationary status, has violated the terms of probation;

14. Conviction by any court of competent jurisdiction, either within or without this state, of any violation of any law governing the practice of roofing contracting, if the Committee determines, after an investigation, that the person has not been sufficiently rehabilitated to warrant the public trust;

15. A finding that licensure has been applied for or obtained by fraudulent means;

16. Practicing or attempting to practice under a name other than the full name as shown on the license, unless otherwise authorized by the Oklahoma Roofing Industry Licensing Act;

17. Gross and willful overcharging for professional services including filing false statements for collection of fees or monies for which services were not rendered; or

18. The surety bond or its equivalent is canceled or a judgment or payment of claim reduces the amount of the required bond below Five Thousand Dollars (\$5,000.00).

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3014 of Title 59, unless there is created a duplication in numbering, reads as follows:

In accordance with rules promulgated by the Board, any person who delivers a check or other payment to the Committee that is returned to the Committee unpaid by the financial institution upon which it is drawn shall pay to the Committee, in addition to the amount already owed to the Committee, an administrative fine of Fifty Dollars (\$50.00). If the check or other payment was for an issuance fee or renewal fee and that person practices without paying the issuance fee or renewal fee and the fine due, an

additional administrative fine of One Hundred Dollars (\$100.00) shall be imposed. The administrative fines imposed by this section are in addition to any other discipline provided pursuant to the Oklahoma Roofing Industry Licensing Act for unlicensed practice or practice on a nonrenewed license. The Committee shall notify the person that payment of fees and fines shall be paid to the Committee by certified check or money order within thirty (30) calendar days of the notification. If, after the expiration of thirty (30) days from the date of the notification, the person has failed to submit the necessary remittance, the Board, upon recommendation of the Committee, shall automatically revoke the license or deny the application. If after revocation or denial the person seeks a license, the person shall apply to the Committee for reissuance of the license and pay all fees and fines due to the Committee. The Board, upon advice of the Committee, may establish a fee for the processing of an application for reissuance of a license for the purpose of paying all expenses of processing this application. The Board, upon advice of the Committee, may waive the fines due under this section in individual cases when the Committee finds that the administrative fines would be an unreasonable or unnecessary hardship.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3015 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition to the hearing powers and duties of the Board and in accordance with the rules of the Board, the Commissioner of Health, as chairperson, along with the other members of the Roofing Industry Licensing Committee shall constitute a hearing board, which may on its own motion make investigations and conduct hearings, may on its own motion or upon complaint in writing duly signed and verified by the complainant, after hearing and upon not less than ten (10) days' notice to the licensee, make recommendation to the Board, and the Board may suspend any license issued pursuant to the Oklahoma Roofing Industry Licensing Act, and may revoke the license in the manner hereinafter provided, if

it has reason to believe or finds that the holder of the license has violated any provision of Section 13, 14 or 15 of this act. The hearing board may recommend to the Board and the Board shall also be empowered to seek a temporary restraining order or other injunctive relief in the district court having jurisdiction in the place of residency of the offending licensee for any such violation.

B. A copy of the complaint with notice of the suspension of license, if ordered by the Board, shall be served on the person complained against, and the person's answer shall be filed in the time allowed for the filing of answers in legal proceedings by the statutes of the State of Oklahoma.

C. No order revoking a license shall be made until after a public hearing set by the hearing board which shall not be less than thirty (30) days and not more than sixty (60) days after the date of notice of such suspension. Such hearing shall be had at the place designated by the hearing board. The person complained against shall have the right to be represented by counsel and to introduce any evidence in defense of the person. The conduct of the hearing shall be in accordance with recognized rules of legal procedure in accordance with Article II of the Administrative Procedures Act, and any member of the hearing board or a representative designated by the hearing board shall have authority to administer oaths, take testimony, and issue subpoenas. Except as provided for in the Oklahoma Roofing Industry Licensing Act, all procedures and orders of the hearing board shall be subject to the provisions of the Administrative Procedures Act.

D. Any person whose license has been revoked may, after the expiration of one (1) year from the date of the revocation, but not before, apply for a new license.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3016 of Title 59, unless there is created a duplication in numbering, reads as follows:

In addition to other penalties provided by law, if after a hearing in accordance with the provisions of the Oklahoma Roofing Industry Licensing Act, the hearing board shall find any person to be in violation of any of the provisions of the Oklahoma Roofing Industry Licensing Act, the person upon order of the Board may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of the Oklahoma Roofing Industry Licensing Act may constitute a separate violation. The maximum fine shall not exceed One Thousand Dollars (\$1,000.00). All administrative fines collected pursuant to the provisions of this section shall be deposited in the fund established in Section 18 of this act. Administrative fines imposed pursuant to this section shall be enforceable in the district courts of this state.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3017 of Title 59, unless there is created a duplication in numbering, reads as follows:

All fees, administrative fines or payments of any type collected pursuant to the Oklahoma Roofing Industry Licensing Act shall be paid directly into the State Treasury where they shall be kept in a separate fund in trust and for use only to meet all necessary expenses incurred in carrying out the intent and purposes of the Oklahoma Roofing Industry Licensing Act. The funds are to be expended only through the authorization of the Board and are to be used for paying operating expenses and in carrying out programs and devices designed to further the efficacy of the roofing industry and public understanding of it. This may include, among other expenditures to be determined through the discretion of the Board, preparation and printing of rules, bulletins, or other documents and the furnishing of copies to those engaged in the roofing industry or to the public.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3018 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On and after January 1, 1998, it shall be unlawful and a misdemeanor for any person to act as, or perform the work of, a roofing contractor, until the person has qualified and is licensed as a roofing contractor, as provided for in the Oklahoma Roofing Industry Licensing Act.

B. On and after January 1, 1998, it shall be unlawful and a misdemeanor for any person, firm, partnership, association, or corporation to act as a roofing contractor or to engage in or offer to engage in, by advertisement or otherwise, the business of roofing or roofing contractor, until such person, a bona fide member of such partnership, or a bona fide officer of such firm, association, or corporation, as the case may be, shall have qualified and is licensed as a roofing contractor as required by the Oklahoma Roofing Industry Licensing Act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3019 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board, upon recommendation of the Committee, may temporarily suspend the license of a roofing contractor, in the manner provided for in the Oklahoma Roofing Industry Licensing Act, if the Committee finds that evidence in its possession indicates that continuation in practice would constitute an imminent danger to the public. In the event that the Board temporarily suspends a license without a hearing, a hearing by the Committee shall be held within thirty (30) days after the suspension has occurred and be concluded without appreciable delay.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3020 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Committee shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or renew a license or the discipline of a licensee. The notice of hearing, complaint, and all other documents in the nature of

pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the hearing officer, and order of the Board shall be the record of such proceedings.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3021 of Title 59, unless there is created a duplication in numbering, reads as follows:

An appeal from the decision of the Board upon the suspension or revocation of a license or disciplinary action against a licensee as provided for in the Oklahoma Roofing Industry Licensing Act, may be taken to the district court of the residence of the aggrieved party. The appellee must file with the Board, within ten (10) days from the date of the decision, a notice of appeal, which notice shall specifically set out the grounds upon which the appeal is taken.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3022 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. If any person violates the provisions of the Oklahoma Roofing Industry Licensing Act, the Commissioner as Chairperson of the hearing board or the Board through the Attorney General of Oklahoma, or the district attorney in any county in which a violation is alleged to exist, may petition for an order enjoining the violation or for an order enforcing compliance with the Oklahoma Roofing Industry Licensing Act. Upon the filing of a verified petition in such court, the court, upon notice and hearing, may issue a temporary restraining order and may preliminarily and permanently enjoin such violation. If it is established that the person has violated or is violating the injunction, the Court may punish the offender for contempt of court.

B. If any person shall practice as a licensee or represent to the public that that person is a licensee without that person actually being licensed pursuant to the provisions of the Oklahoma Roofing Industry Licensing Act, then any person licensed pursuant

to the Oklahoma Roofing Industry Licensing Act, any interested party, or any person injured thereby may, in addition to those officers identified in subsection A of this section, petition for relief as provided for in subsection A of this section.

C. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties which may be provided by law.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3023 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Nothing in the Oklahoma Roofing Industry Licensing Act shall:

1. Prevent municipalities from enacting ordinances that are equal to or more stringent than those contained in the Oklahoma Roofing Industry Licensing Act;

2. Limit the power of a municipality to enact ordinances to regulate the quality and character of work performed by roofing contractors through a system of licenses, permits, fees, and inspections which are designed to secure compliance with and aid in the implementation of federal, state, and local building laws or codes or to enforce other local laws for the protection of the public health and safety;

3. Limit the power of the municipalities to adopt any system of permits requiring submission to and approval by the municipality of plans and specifications for work to be performed by roofing contractors before commencement of the work;

4. Be construed to require a seller of roofing materials or services to be licensed as a roofing contractor when the construction, reconstruction, alteration, maintenance, repair, or waterproofing of roofs is to be performed by a person other than the seller or the seller's employee;

5. Be construed to require a person to be licensed as a roofing contractor in this state to make a temporary repair to a roof, or to perform construction, reconstruction, alteration, maintenance, repair, or waterproofing or other roof work on:

- a. such person's own single-family dwelling,
- b. the property of the person or others for no consideration, or
- c. a person's employer's property when there exists an employer-employee relationship;

6. Be construed to require a person to be licensed as a roofing contractor who provides evidence that such person is licensed, certified, or registered in another state if such licensure, certification, or registration is equal to or more stringent than the Oklahoma Roofing Industry Licensing Act; or

7. Prevent prosecution under the Home Repair Fraud Act as provided for in Section 765.1 et seq. of Title 15 of the Oklahoma Statutes.

B. Any official authorized to issue building or other related permits shall ascertain that the applicant contractor is duly licensed pursuant to the Oklahoma Roofing Industry Licensing Act before issuing the permit. The evidence shall consist only of the exhibition to the official of current evidence of licensure, including, but not limited to, the license number.

C. The Oklahoma Roofing Industry Licensing Act applies to any roofing contractor performing work for the state or any political subdivision of this state. Officers of the state or any political subdivision of this state are required to determine compliance with the Oklahoma Roofing Industry Licensing Act before awarding any roofing contracts for construction, reconstruction, alteration, improvement, remodeling, repair, or waterproofing of any roofing. The state or any political subdivision of this state may require that bids submitted for roofing of public buildings be accompanied by evidence that the bidder holds an appropriate license issued pursuant to the Oklahoma Roofing Industry Licensing Act.

SECTION 25. This act shall become effective July 1, 1997.

SECTION 26. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take

effect and be in full force from and after its passage and approval.

46-1-6757

MCD