ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 2180

By: Newberry and Garrison of the Senate

and

Jordan of the House

(professions and occupations - Roofing Contractor Registration Act - codification - effective date)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(professions and occupations - creating the Roofing Contractor Registration Act - Construction Industries Board as registrar - designating Secretary of State as service agent for certain nonresident roofing contractors - directing the Construction Industries Board to develop permit issuing process - creating the Roofing Contractor Registration Revolving Fund – codification - effective date)

~~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 1151.1 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 "Roofing Contractor Registration Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Roofing contractor" means any person, including a subcontractor and nonresident contactor, engaged in the business of commercial or residential roofing services for a fee, or who offers to engage in or solicits roofing-related services, including construction, installation, renovation, repair, maintenance, alteration, and waterproofing. Roofing contractor shall not mean a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material;

2. "Nonresident contractor" means any contractor who has not established and maintained a place of business as a roofing contractor in this state within the preceding year, or who claims residency in another state, or who has not submitted an income tax return as a resident of this state within the preceding year;

3. "Person" includes any individual, firm, partnership, association, corporation, limited liability company, or other group or combination thereof acting as a unit, unless the intent to give a more limited meaning is disclosed clearly by this act;

4. "Public contract" means a contract with the State of Oklahoma, its political subdivisions, or any board, commission, or department thereof, or with any board of county commissioners, or with any city council, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to award contracts for the construction or reconstruction of public work and includes subcontracts undertaken to perform works covered by the original contract or any part thereof; and

5. "Registrar" means the Construction Industries Board.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A person may not engage in the business nor act in the capacity of a roofing contractor within this state nor may that person bring or maintain any claim, action, suit, or proceeding in any court of this state related to the person's business or capacity as a roofing contractor without a valid registration as provided in this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Construction Industries Board is hereby designated registrar under the provisions of this act and as registrar has authority to employ such assistance and procure such records, supplies, and equipment as may be necessary to carry out and implement the provisions of this act. The Construction Industries Board may promulgate rules, forms, policy and procedures to implement the provisions of this act. The Construction Industries Board may administer any provision of this act through use of the Internet or other technology as deemed necessary or appropriate.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. To obtain a roofing contractor registration under this act, an applicant who is eighteen (18) years of age or older shall submit, on forms the registrar prescribes, an application under oath containing a statement of the applicant's experience and qualifications as a roofing contractor, if any, the applicant’s physical address and the applicant’s phone number. A copy of the roofing contractor’s certificate of liability insurance must be filed with the application and shall be not less than Five Hundred Thousand Dollars ($500,000.00). In addition, the roofing contractor must submit proof that the contractor has secured workers' compensation coverage satisfactory under the Workers' Compensation Act, or an affidavit of exemption or self-insurance as authorized

pursuant to the Workers' Compensation Act. If the registrar deems it appropriate or necessary, the registrar may also require other information to assist the registrar in registering the person as a contractor. The application must contain statements that the applicant desires the issuance of a roofing contractor registration certificate; that the applicant will comply with the provisions of this act; that the applicant will comply with state laws and local ordinances relating to standards and permits; that the applicant has or has not been registered as a roofing contractor in another state and whether any disciplinary action was taken against such registration or whether it is still in good standing; and that the nonresident applicant appoints the Secretary of State as legal service agent for all lawful process to be served upon the applicant for work performed in this state or as otherwise provided in this act.

B. The registrar may refuse to register any person if the registrar determines:

1. The application contains false, misleading, or incomplete information;

2. The applicant fails or refuses to provide any information requested by the registrar;

3. The applicant fails or refuses to pay the required fees;

4. The applicant is ineligible for registration due to a prior suspended or revoked registration in this state;

5. The applicant has failed to obtain or maintain any registration required by law for roofing contractors in this state or another state; or

6. The applicant has failed or refuses to submit any taxes due in this state.

C. The registrar shall notify the applicant in writing if the registrar does not grant a registration or renewal certificate, and shall provide the applicant an opportunity to respond to or cure any defect in the written application or renewal for a period of ten (10) days from the date of the written notification. An applicant aggrieved by a decision of the registrar not to grant a registration or renewal may appeal the decision as provided in the Administrative Procedures Act, or the applicant may reapply after a ninety-day waiting period, if otherwise eligible under the provisions of this act. The application and renewal fees shall not be refundable.

D. Upon obtaining knowledge that a roofing contractor has violated any provision of this act, the registrar shall send a notice of the alleged violation to the contractor. No sooner than twenty (20) days after sending written notice to a roofing contractor at the contractor's last-known address, the registrar shall classify as not in good standing the registration of any contractor who fails to:

1. Maintain liability insurance coverage;

2. Maintain workers' compensation coverage satisfactory under the Workers' Compensation Act, or provide an affidavit of exemption or self-insurance as authorized pursuant to the Workers' Compensation Act;

3. File, renew, or properly amend any fictitious name certificate;

4. Maintain an active status of a corporation or registration as a foreign corporation, a limited liability company or registration as a foreign limited liability company, a limited liability partnership registration or foreign limited liability partnership registration, or a limited partnership certificate or limited partnership or foreign limited partnership certificate of authority, with the Office of the Secretary of State;

5. File or renew a trade name registration;

6. Maintain or renew a roofing contractor registration as provided in this act;

7. Notify the registrar of a change in name, address, legal business entity, legal service agent, or adjudication of guilt by a court of competent jurisdiction for any violation of this act;

8. Obtain or maintain a registration as may be required by law for roofing contractors in this state or another state; or

9. File and pay all taxes when due in this state.

E. Any roofing contractor who has been notified by the registrar that the contractor's registration is not in good standing

shall cease soliciting or entering new roofing services and projects as of the date of such notification. If the roofing contractor fails to correct the deficiency specified in the notice by evidence satisfactory to the registrar within thirty (30) days of the date of the notice or if the roofing contractor solicits or enters new roofing services or projects while the roofing contractor's registration is not in good standing, the registrar shall proceed to suspend the registration of the roofing contractor for one (1) year after notice and hearing.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

There shall be a question on the application and renewal forms requiring the applicant to answer under oath whether or not the applicant has been convicted of a felony offense in this state, another state, or any other place, and the nature of that offense upon which a conviction was imposed. The registrar shall provide either on the application and renewal forms or by separate notice a statement describing the requirement under state law to register in the state if convicted of a sex offense upon entering this state to reside or work.

Conviction of an offense does not disqualify a person from registration as a roofing contractor under this act unless the Construction Industries Board determines after notice and hearing

that the offense has a direct bearing upon a person's ability to serve the public as a roofing contractor. A determination of the Construction Industries Board that a conviction is a bar to eligibility for registration under this act shall be a final decision for purposes of registration under this act. An aggrieved person may appeal the decision to deny registration based upon a felony conviction as provided for appeals in the Administrative Procedures Act.

The registrar shall not be required to conduct a criminal history records search on any applicant; however, upon written request to the applicant, the registrar may require the applicant to submit to a criminal history records search and to pay the necessary fees to conduct such records search. In the case of a required criminal history records search, no original registration or renewal shall be granted until the records search is completed and deemed satisfactory by the registrar for registration under this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

The holder of a roofing contractor registration certificate is entitled to engage in the roofing business within this state pursuant to the provisions of this act and subject to the following limitations:

1. A roofing contractor's registration certificate number must be valid at the time of soliciting a project and during subsequent job performance, and shall not be suspended, revoked or deemed not in good standing by the registrar;

2. A roofing contractor's registration certificate number must be submitted when applying for any permit issued by the state, or any of its political subdivisions, for commercial or residential roofing services or projects and must be written upon each permit issued;

3. A roofing contractor's registration certificate cannot be shared or used by any other individual or business entity; provided, however, a business firm, partnership, association, corporation, limited liability company, or other group or combination thereof acting as a unit may be granted a single roofing registration certificate number for use by designated roofing contractors acting as agents for the business entity when the application for registration contained sufficient information on each member, partner, officer and agent and the registrar issued a single certificate number to such persons as a business unit;

4. Upon any change to the name, address, business entity, or legal service agent of a roofing contractor, the registrar must be notified;

5. A roofing contractor must comply with state laws and local ordinances relating to standards and permits for roofing services and projects; and

6. A roofing contractor must pay taxes due in this state.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. At the time of making application for a roofing contractor registration certificate pursuant to this act, the applicant shall pay to the registrar a fee to be set by the registrar, which shall not exceed Three Hundred Dollars ($300.00).

B. All monies collected by the registrar for roofing contractor registration applications, renewals and other fee assessments shall be deposited by the registrar and credited to the Roofing Contractor Registration Revolving Fund and such funds shall be used by the Construction Industries Board to implement and administer the provisions of this act.

C. The fee to be submitted with an application for a contractor registration shall be prorated as set by the registrar for only those applications received between January 1, 2011, and April 30, 2011; and, thereafter, the fee shall be as stated in subsection A of this section.

D. A renewal fee for a roofing contractor registration shall be set by the registrar, which shall not exceed Three Hundred Dollars ($300.00).

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. This act does not apply to:

1. An actual owner of residential or farm property who physically performs, or has employees who perform, roofing services including, construction, installation, renovation, repair, maintenance, alteration, waterproofing, or removal of materials or structures on his or her own dwelling or another structure located on the residential or farm property owned by such person without the assistance of any registered roofing contractor as such term is defined by this act;

2. Any authorized employee, representative or representatives of the United States Government, the State of Oklahoma, or any county, municipality, or other political subdivision of this state; and

3. Any person who furnishes any fabricated or finished product, material, or article of merchandise which is not incorporated into or attached to real property by such person so as to become affixed thereto.

B. This act shall require any administrative or governing body with authority to enter into public contracts to require individual roofing contractor registration for purposes of such persons submitting or entering into any bid or contract.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

Within twenty-five (25) calendar days from the date of application, the registrar shall determine whether the applicant has met the requirements to act in the capacity of roofing contractor as defined in this act, and no registration shall be issued to an applicant until the registrar receives all documentation and fees necessary to obtain a registration certificate. The registration certificate issued on an original application entitles the person to act as a roofing contractor within this state, subject to the limitations of this act, until the expiration of the then current fiscal year ending June 30, except that an initial registration issued in May or June is valid until June 30 of the subsequent year. A prorated registration certificate issued between January 1, 2011, and April 30, 2011, shall be valid until June 30, 2011.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

Not later than ten (10) days after the date of a change in a roofing contractor's name, address or legal service agent, or upon a registered roofing contractor ceasing business as a roofing contractor, the person must notify the registrar of the change on a form provided by the registrar. A name, address, or legal service agent change must be accompanied by a fee not exceeding Twenty-five Dollars ($25.00) to be set by the registrar. A person may not change his or her name under an active registration certificate if the change is associated with a change in the legal status of the business entity other than a change in marital status. Doing business under a new business name or a change in legal status of a business requires issuance of a new registration certificate. When a registered roofing contractor ceases to be active as a roofing contractor, the registrar must suspend the registration certificate of such contractor.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any roofing contractor registration certificate issued under this act may be renewed for each successive fiscal year by obtaining from the registrar a certificate of renewal. To obtain a certificate of renewal, the person shall file with the registrar a renewal application by June 30 and pay the renewal fee. The application for renewal shall require a statement that the applicant

has properly submitted income and employment taxes due in this state. The registrar may forward a copy of any information in an application for renewal to the Oklahoma Tax Commission and any other state agency. The applicant must include with the renewal application a copy of the certificate of liability insurance, unless the registrar has a current valid certificate of insurance on file, proof of workers' compensation coverage, unless exempt under the Workers' Compensation Act, and, if applicable, a copy of the current registration certificate required by law for roofing contractors. The renewal application need not be notarized.

B. The registrar may refuse to renew a roofing contractor's registration certificate for any reason stated in subsection B of Section 5 of this act. The registrar shall notify the applicant in writing if the registrar does not grant the renewal as provided in subsection C of Section 5 of this act. The registrar may request additional information when deemed appropriate to renew the contractor.

C. If any roofing contractor fails to file a renewal application by the June 30 deadline, that contractor's registration is not in good standing and the contractor must be deemed to be not registered within the meaning of this act. A roofing contractor has a thirty-day grace period after June 30 to renew the registration certificate without a late fee. The late fee shall be set by the registrar which shall not exceed One Hundred Dollars ($100.00). A

roofing contractor registration certificate not renewed by August 30 shall be suspended, and on January 1, if a roofing contractor's registration certificate still has not been renewed, it must be revoked.

D. 1. A roofing contractor desiring to renew a registration certificate that has been suspended shall be assessed a fee equal to twice the amount of the fee established by subsection D of Section 8 of this act.

2. The registrar shall assess a reinstatement fee not exceeding Three Hundred Dollars ($300.00) to be set by the registrar plus the fee established by Section 8 of this act for any registration that has been revoked.

3. A roofing contractor submitting an application for registration after suspension or revocation of that contractor's registration certificate must be otherwise eligible for registration under this act.

E. The registrar shall include a registration status notation in a roofing contractor's record if the status of registration changes to not in good standing, suspended or revoked.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.13 of Title 59, unless there

The registrar shall maintain in the registrar's office, open to public inspection during normal office hours, a complete indexed

record of all roofing contractor registrations and information maintained on individual roofing contractors. The registrar may dispose of an inactive roofing contractor file after three (3) years. Before disposal and upon written request, the registrar shall furnish a certified copy of any information maintained on an individual roofing contractor upon receipt of the sum of Ten Dollars ($10.00) for each annual record. Each certified copy of a roofing contractor's record from the registrar shall be received in all courts in this state as prima facie evidence of the facts stated therein. The registrar may condense or provide an abstract of a roofing contractor's record for public inspection at any time for purposes of data management; provided, a complete record is available for public inspection upon written request.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.14 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any person may file a duly verified complaint with the registrar alleging that the person has committed any of the following acts or omissions:

1. Abandonment of a roofing contract without legal excuse after a deposit of money or other consideration has been paid;

2. Diversion of funds or property entrusted to a roofing contractor;

3. Engaging in any fraudulent or deceptive acts or practices or misrepresentation as a roofing contractor;

4. Making a false or misleading statement in an application for roofing contractor registration or renewal or violating any provision of this act;

5. Conviction of an offense which prohibits the person from registration as a roofing contractor or affects the ability of the person to serve the public as a roofing contractor;

6. Engaging in work without a valid registration as required for roofing contractors pursuant to this act;

7. Engaging in roofing services without obtaining a proper permit as may be required by any state or local authority; or

8. Failure to comply with any tax laws authorized by the state or any of its political subdivisions.

B. The complaint must be on a form approved by the registrar and must set forth sufficient facts upon which a reasonable person could conclude that any of the acts or omissions in subsection A of this section has been committed.

C. A complaint may constitute grounds for the Attorney General or district attorney to bring an action against the person registered as a roofing contractor or against any person not registered who is engaging in the business or acting in the capacity of a roofing contractor in violation of the provisions of this act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.15 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The registrar shall review each complaint received and may include for public inspection all or part of the information contained in a complaint when the registrar deems it to be in the best interests of the public. If the registrar determines a written complaint provides sufficient facts upon which a reasonable person could conclude that one or more of the acts or omissions set forth in Section 14 of this act has been committed, the registrar shall hold a disciplinary hearing pursuant to the Administrative Procedures Act, after proper notice to the contractor, or the registrar shall refer the complaint to the appropriate district attorney for investigation or other disposition. The registrar may assess an administrative fine upon a final decision that the contractor violated the provisions of this act. The administrative fine shall not be more than Two Thousand Five Hundred Dollars ($2,500.00) for a violation. Complaints may be a basis for the registrar to review and implement necessary standards and rules for registered roofing contractors.

B. If a roofing contractor is adjudicated by a court of competent jurisdiction to be guilty of an act or omission in violation of this act, the registrar shall revoke or deny the roofing contractor's registration for one (1) year or as otherwise

ordered by the court. During the pendency of any judicial proceedings for any violation of this act, the registrar may suspend a roofing contractor's registration, or, in the case of a person who is not registered as required in this act, refuse to issue a roofing contractor registration to such person, for a period of one (1) year or until the proceeding is adjudicated or dismissed, whichever is longer.

C. The registrar may not renew, reinstate, or issue a new roofing contractor registration to any person adjudicated guilty of a violation of the provisions of this act until the suspension or revocation period has terminated and the person makes application and pays required fees pursuant to Sections 8 and 12 of this act.

D. No person shall attempt to obtain a roofing contractor registration certificate under any other name during any period when the roofing contractor’s registration is suspended or revoked. A business firm, partnership, association, corporation, limited liability company, or other group or combination thereof acting as a unit whose registration certificate is suspended or revoked includes any members, partners, officers, and agents acting under that roofing contractor registration certificate.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.16 of Title 59, unless there is created a duplication in numbering, reads as follows:

Every applicant for a roofing contractor's registration who is a nonresident contractor as defined by this act, by signing and filing the application, appoints the Secretary of State as the applicant's true and lawful agent upon whom may be served all lawful process in any action or proceeding against such nonresident contractor for construction projects performed in this state. Such appointment in writing is evidence of the roofing contractor's consent that any such process against the contractor which is so served upon the Secretary of State shall be of the same legal force and effect as if served upon the contractor personally within this state. Registered foreign corporations, registered foreign limited liability companies, foreign limited liability partnerships and foreign limited partnerships entitled to do business in this state and having a current registered agent and registered address on file in the Office of the Secretary of State need not appoint the Secretary of State as agent for service of process under this section. Within ten (10) days after service of the summons upon the Secretary of State, notice of such service with the summons and complaint in the action shall be sent to the defendant roofing contractor at the defendant contractor's last-known address by registered or certified mail with return receipt requested and proof of such mailing shall be attached to the summons. The Secretary of State shall keep a record of all process served upon the Secretary of State under this section, showing the day and hour of service. Whenever service of

process was made under this section, the court, before entering a default judgment, or at any stage of the proceeding, may order such continuance as may be necessary to afford the defendant contractor reasonable opportunity to defend any action pending against the defendant contractor.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.17 of Title 59, unless

A. When applying for any permit required by the state or any of its political subdivisions for roofing services or jobs, a roofing contractor shall supply the permit-issuing official that roofing contractor's registration certificate number issued pursuant to this act. That official shall enter a roofing contractor’s registration number on the permit. A person performing as a roofing contractor on his or her own property, although exempt from the registration requirements of this act, shall, when applying for a permit required for the project, supply the permit-issuing official any roofing contractor registration number, as soon as available, of each roofing subcontractor engaged in roofing services and doing work covered by the permit. That official shall enter each roofing contractor registration number so supplied before inspection of the job.

B. A roofing contractor shall display his or her roofing contractor registration numbered issued pursuant to this act on each commercial vehicle used for roofing services and upon every business

card, correspondence, and contract used to solicit and conduct roofing services in this state.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.18 of Title 59, unless there is created a duplication in numbering, reads as follows:

Upon request, the registrar shall verify a roofing contractor registration number to city and county enforcement officials. The registrar shall establish through the Internet or other technology a verification system for roofing contractor registration certificates maintained by the Construction Industries Board. Whenever the registrar obtains information on the activities of a roofing contractor doing business in this state of which officials of any state agency or local enforcement official may be unaware, and that may be relevant to the duties of such agency or official, the registrar shall provide the relevant information to those officials and agencies for the purpose of administering and enforcing official duties.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.19 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be construed to be in addition to, and not in lieu of, any required licensure of persons for certain professions and trades in this state, and further, this act shall not be deemed to conflict with or affect the authority of any state or local

agency, board or commission whose duty and authority is to administer or enforce any law or ordinance or to establish, administer or enforce any policy, rule, qualification or standard for any trade or profession.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Construction Industries Board to be designated the "Roofing Contractor Registration Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of application and renewal fees, late fees, administrative fees, reinstatement fees, and any other monies collected pursuant to the Roofing Contractor Registration Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Construction Industries Board for implementation and administration of the Roofing Contractor Registration Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. This fund shall be subject to and comply with the provisions of Section 211 of Title 62 of the Oklahoma Statutes.

SECTION 21. This act shall become effective November 1, 2010."

Passed the House of Representatives the 15th day of April, 2010.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2010.

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Presiding Officer of the Senate