

1 ENGROSSED SENATE
2 BILL NO. 928

By: Newberry of the Senate

3 and

4 Jordan of the House

5
6 [roofing contractors - suspension of registration -
7 volunteer labor - cancellation of contract - refund -
8 codification - effective date -
9 emergency]

10

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

12 SECTION 1. AMENDATORY Section 3, Chapter 479, O.S.L.
13 2010 (59 O.S. Supp. 2010, Section 1151.3), is amended to read as
14 follows:

15 Section 1151.3. A. A person may not engage in the business nor
16 act in the capacity of a roofing contractor within this state nor
17 may that person bring or maintain any claim, action, suit, or
18 proceeding in any court of this state related to the person's
19 business or capacity as a roofing contractor without a valid
20 registration as provided in ~~this act~~ the Roofing Contractor
21 Registration Act.

22 B. A person who fails to obtain a valid registration prior to
23 acting as a roofing contractor as defined in ~~this act~~ the Roofing
24 Contractor Registration Act, a person who acts as a roofing

1 contractor while his or her registration is suspended or revoked, or
2 a person who violates any provision of ~~this act~~ the Roofing
3 Contractor Registration Act shall be guilty of a misdemeanor, upon
4 conviction, punishable by a fine not to exceed Five Hundred Dollars
5 (\$500.00) for each violation. More than one violation in any
6 twelve-month period shall be grounds for the suspension of the
7 registration, and shall cause the person to be ineligible for
8 registration for a period not to exceed twelve (12) months.

9 SECTION 2. AMENDATORY Section 5, Chapter 479, O.S.L.
10 2010 (59 O.S. Supp. 2010, Section 1151.5), is amended to read as
11 follows:

12 Section 1151.5. A. To obtain a roofing contractor registration
13 under ~~this act~~ the Roofing Contractor Registration Act, an applicant
14 who is eighteen (18) years of age or older shall submit, on forms
15 the registrar prescribes, an application under oath containing a
16 statement of the applicant's experience and qualifications as a
17 roofing contractor, if any, the applicant's name, physical address,
18 business name and address and place of incorporation, if different,
19 information on any other person who will be authorized to act as the
20 business entity, and the applicant's phone number. A copy of the
21 roofing contractor's certificate of liability insurance shall be
22 filed with the application and shall be not less than Five Hundred
23 Thousand Dollars (\$500,000.00). Any insurance company issuing a
24 liability policy to a roofing contractor pursuant to the provisions

1 of ~~this act~~ the Roofing Contractor Registration Act shall be
2 required to notify the Construction Industries Board in the event
3 such liability policy is cancelled for any reason or lapses for
4 nonpayment of premiums. All registrations granted under the Roofing
5 Contractor Registration Act shall be suspended on the date of the
6 policy cancellation. The registrar must receive proof of insurance
7 prior to restoring the registration. In addition, the roofing
8 contractor shall submit proof that the contractor has secured
9 workers' compensation coverage satisfactory under the Workers'
10 Compensation Act, or an affidavit of exemption or self-insurance as
11 authorized pursuant to the Workers' Compensation Act. If the
12 registrar deems it appropriate or necessary, the registrar may also
13 require other information to be included on the application form to
14 assist the registrar in registering the person as a contractor. The
15 application shall contain statements that the applicant desires the
16 issuance of a roofing contractor registration certificate; that the
17 applicant will comply with the provisions of ~~this act~~ the Roofing
18 Contractor Registration Act; that the applicant will comply with
19 state laws and local ordinances relating to standards and permits;
20 that the applicant has or has not been registered or licensed as a
21 roofing contractor in another state and whether any disciplinary
22 action was taken against such registration or license or whether it
23 is still in good standing; and that the nonresident applicant
24 appoints the Secretary of State as legal service agent for all

1 lawful process to be served upon the applicant for work performed in
2 this state or as otherwise provided in ~~this act~~ the Roofing
3 Contractor Registration Act.

4 B. The registrar shall refuse to register any person if the
5 registrar determines:

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

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

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

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

13 5. The nonresident applicant has a revoked or suspended
14 registration or license required by law for roofing contractors in
15 another state; or

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

18 C. The registrar shall notify the applicant in writing if the
19 registrar denies a registration or renewal certificate, and shall
20 provide the applicant an opportunity to respond to or cure any
21 defect in the written application or renewal for a period of ten
22 (10) days from the date of the written notification. An applicant
23 aggrieved by a decision of the registrar denying a registration or
24 renewal may appeal the decision as provided in the Administrative

1 Procedures Act, or the applicant may reapply after a ninety-day
2 waiting period, if otherwise eligible under the provisions of ~~this~~
3 ~~act~~ the Roofing Contractor Registration Act. The application and
4 renewal fees shall not be refundable.

5 D. The registrar shall classify as not in good standing the
6 registration of any roofing contractor who fails to:

7 1. Maintain liability insurance coverage;

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

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

14 4. Maintain an active status of a corporation or registration
15 as a foreign corporation, a limited liability company or
16 registration as a foreign limited liability company, a limited
17 liability partnership registration or foreign limited liability
18 partnership registration, or a limited partnership certificate or
19 limited partnership or foreign limited partnership certificate of
20 authority, with the Office of the Secretary of State;

21 5. File or renew a trade name registration;

22 6. Maintain or renew a roofing contractor registration as
23 provided in ~~this act~~ the Roofing Contractor Registration Act;

24

1 7. Notify the registrar of a change in name, address, legal
2 business entity, legal service agent, or adjudication by a court of
3 competent jurisdiction for any act or omission specified in
4 subsection A of Section ~~14~~ 1151.14 of this ~~act~~ title or a violation
5 of ~~this act~~ the Roofing Contractor Registration Act;

6 8. Maintain a registration as required by law in another state
7 while registered in this state as a nonresident roofing contractor;
8 or

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

10 E. The registrar shall send a written notice to the person when
11 his or her registration is not in good standing. Any roofing
12 contractor who has been notified by the registrar that his or her
13 registration is not in good standing shall cease soliciting or
14 entering new roofing services and projects as of the date of such
15 notification; however, the roofing contractor shall be allowed to
16 complete roofing projects where actual physical work has begun prior
17 to the date of issuance of the notice that his or her registration
18 is not in good standing. The roofing contractor must disclose the
19 change in standing to any homeowner or other person who has an
20 interest in any job covered under the Roofing Contractor
21 Registration Act. Upon notice of a change in standing, the
22 homeowner shall have the option to cancel the contract. The roofing
23 contractor will be owed the actual cost incurred for materials and
24 the market value of labor already incurred on the job. The roofing

1 contractor must obtain an updated authorization from the homeowner
2 and other parties of interest if there is an agreement to continue
3 the job as originally negotiated. If the roofing contractor fails
4 to correct the deficiency specified in the notice by evidence
5 satisfactory to the registrar within thirty (30) days of the date of
6 the notice, or if the roofing contractor solicits or enters into new
7 roofing services contracts or projects while the roofing
8 contractor's registration is not in good standing, or while such
9 registration is suspended or revoked, the roofing contractor shall
10 be in violation of the provisions of ~~this act~~ the Roofing Contractor
11 Registration Act. Any registration that remains not in good
12 standing for a sixty-day period shall be suspended on the sixtieth
13 day from the date of issuance of the notice to the roofing
14 contractor that his or her registration is not in good standing.
15 Any registration the remains not in good standing, and is suspended
16 for such cause, shall be revoked on the ninetieth day from the date
17 of issuance of the notice to the roofing contractor that his or her
18 registration is not in good standing. The registrar shall notify
19 the roofing contractor upon suspension or revocation of his or her
20 registration for failure to comply in bringing such registration
21 into good standing as required by law. The roofing contractor may
22 reinstate his or her registration to good standing by paying the
23 required fees provided in Section ~~12~~ 1151.12 of this ~~act~~ title and
24 complying with all other requirements for issuance of a registration

1 in good standing. Any person aggrieved by the decision of the
2 registrar to suspend or revoke a registration pursuant to this
3 section may appeal such decision as provided in the Administrative
4 Procedures Act.

5 SECTION 3. AMENDATORY Section 7, Chapter 479, O.S.L.
6 2010 (59 O.S. Supp. 2010, Section 1151.7), is amended to read as
7 follows:

8 Section 1151.7. The holder of a roofing contractor registration
9 certificate is entitled to engage in the roofing business within
10 this state pursuant to the provisions of ~~this act~~ the Roofing
11 Contractor Registration Act, and subject to the following
12 limitations:

13 1. A roofing contractor's registration certificate number shall
14 be valid and in good standing at the time of soliciting a project
15 and during subsequent job performance;

16 2. A roofing contractor's registration certificate number shall
17 be submitted when applying for any permit issued by the state, or
18 any of its political subdivisions, for commercial or residential
19 roofing services or projects, if a permit is required by such
20 authority, and shall be written upon each permit issued. Provided,
21 however, no permitting authority shall require a roofing contractor
22 registration certificate as a condition to issuing a permit when
23 registration is exempt pursuant to Section 1151.9 of this title;

24

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

11 4. Upon any change to the name, address, business entity, or
12 legal service agent of a roofing contractor or upon adjudication by
13 a court of competent jurisdiction for a violation of ~~this act~~ the
14 Roofing Contractor Registration Act or an act or omission specified
15 in subsection A of Section ~~14~~ 1151.14 of this ~~act~~ title, the
16 registrar shall be notified in writing;

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

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

21 SECTION 4. AMENDATORY Section 8, Chapter 479, O.S.L.
22 2010 (59 O.S. Supp. 2010, Section 1151.8), is amended to read as
23 follows:
24

1 Section 1151.8. A. At the time of making application for a
2 roofing contractor registration certificate pursuant to ~~this act~~ the
3 Roofing Contractor Registration Act, the applicant shall pay to the
4 registrar a fee ~~to be set by the registrar, which shall not exceed~~
5 ~~Three Hundred Dollars (\$300.00)~~ of Seventy-five Dollars (\$75.00) for
6 the annual registration certificate.

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

13 C. The fee to be submitted with an application for a roofing
14 contractor registration may be prorated as set by ~~the registrar~~ the
15 provisions of the Roofing Contractor Registration Act. Unless
16 prorated at the time of initial registration, fees shall be paid in
17 the amount stated in subsection A of this section and such
18 registration certificates shall expire June 30 each year.

19 D. A renewal fee for a roofing contractor registration shall be
20 ~~set by the registrar, which shall not exceed Three Hundred Dollars~~
21 ~~(\$300.00)~~ Seventy-five Dollars (\$75.00) for the annual renewal
22 registration certificate.

23 E. Any person having registered prior to July 15, 2011, shall
24 be entitled to a fee refund for any amount paid in excess of the fee

1 stated in subsection A of this section. The registrar shall make
2 the fee refund on the date of expiration of the current registration
3 period for which the fee charged was in excess of the amount stated
4 in subsection A of this section.

5 SECTION 5. AMENDATORY Section 9, Chapter 479, O.S.L.
6 2010 (59 O.S. Supp. 2010, Section 1151.9), is amended to read as
7 follows:

8 Section 1151.9 A. The Roofing Contractor Registration Act does
9 not apply to:

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

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

22 3. Any person who furnishes any fabricated or finished product,
23 material, or article of merchandise which is not incorporated into
24

1 or attached to real property by such person so as to become affixed
2 thereto; or

3 4. Churches or other charitable entities that provide roof
4 repairs or replacements at no charge using volunteer labor.

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

9 SECTION 6. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1151.21 of Title 59, unless
11 there is created a duplication in numbering, reads as follows:

12 A. When a person indicates a residential contractor will be
13 paid by the proceeds of a property and casualty insurance policy and
14 the person enters into a written contract with a residential
15 contractor to provide goods and services with the understanding the
16 insured is to pay from the proceeds of a property and casualty
17 insurance policy claim, the person may cancel the contract within
18 seventy-two (72) hours after the insured has received written notice
19 from the insurer that all or any part of the claim has been denied.
20 Cancellation is evidenced by the insured giving written notice of
21 cancellation to the residential contractor at the address stated in
22 the contract. Notice of cancellation, if given by mail, is
23 effective upon deposit into the United States mail, postage prepaid
24 and properly addressed to the contractor. Notice of cancellation

1 need not take a particular form and is sufficient if it indicates,
2 by any form of written expression, the intention of the insured not
3 to be bound by the contract.

4 B. Before entering into a contract referred to in subsection C
5 of this section, the residential contractor shall:

6 1. Furnish the insured a statement in boldface letters in a
7 minimum size of twelve-point type, in substantially the following
8 form: "You may cancel this contract at any time within seventy-two
9 (72) hours after you have received written notification from your
10 insurer that your claim to pay for the goods and services to be
11 provided under this contract has been denied. See attached Notice
12 of Cancellation for an explanation of this right."; and

13 2. Furnish the insured a Notice of Cancellation form, fully
14 completed in duplicate, attached to the contract, but easily
15 detachable, containing a statement in boldface letters in a minimum
16 size of ten-point type, containing the following statement:

17 "NOTICE OF CANCELLATION

18 If your insurer denies all or any part of your claim to pay for
19 goods and services to be provided under this contract, you may
20 cancel the contract by mailing or delivering a signed and dated
21 copy of this cancellation notice or any other written notice to
22 _____ (name of contractor) at _____ (address of contractor's
23 place of business) at any time within seventy-two (72) hours
24 after you have received written notice that your claim has been

1 denied. If you cancel, any payments made by you under the
2 contract will be returned to you within ten (10) business days
3 following receipt by the contractor of your cancellation notice.

4 I HEREBY CANCEL THIS TRANSACTION

5 _____
6 (date)

7 _____
8 (insured's signature)"

9 C. Within ten (10) days after a contract referred to in
10 subsection A of this section has been cancelled, the contractor
11 shall tender to the insured any payments made by the insured and any
12 note or other evidence of indebtedness. If, however, the contractor
13 has performed any emergency services, acknowledged by the insured in
14 writing to be necessary to prevent damage to the premises, the
15 contractor is entitled to the reasonable value of such services.

16 D. Any violation of this section by a residential contractor
17 shall be considered a violation of the Roofing Contractor
18 Registration Act, and shall be subject to the misdemeanor penalties
19 prescribed in Section 1151.3 of Title 59 of the Oklahoma Statutes.

20 SECTION 7. This act shall become effective July 1, 2011.

21 SECTION 8. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
23 declared to exist, by reason whereof this act shall take effect and
24 be in full force from and after its passage and approval.

