

1 **SENATE FLOOR VERSION**

2 February 28, 2011

3 As Amended

4 SENATE BILL NO. 928

By: Newberry of the Senate

and

Jordan of the House

8 An Act relating to roofing contractors; amending
9 Sections 3, 5, 7 and 9, Chapter 479, O.S.L. 2010 (59
10 O.S. Supp. 2010, Sections 1151.3, 1151.5, 1151.7 and
11 1151.9), which relate to the Roofing Contractor
12 Registration Act; providing for suspension of
13 registration for certain number of violations within
14 certain time period; directing disclosure of place of
15 incorporation; requiring suspension of registration
16 for insurance cancellation; authorizing cancellation
17 of contract for change in standing; providing for
18 payment for costs and labor; requiring updated
19 authorization to continue certain work; exempting
20 churches and certain charitable entities using
21 volunteer labor; authorizing cancellation of contract
22 within certain time after denial of insurance claim;
23 requiring notice of cancellation; directing
24 attachment of certain form; requiring refund of
payments within certain time period for certain
cancellation; construing certain violation; setting
penalty; providing for codification; providing an
effective date; and declaring an emergency.

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

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

1 Section 1151.3. A. A person may not engage in the business nor
2 act in the capacity of a roofing contractor within this state nor
3 may that person bring or maintain any claim, action, suit, or
4 proceeding in any court of this state related to the person's
5 business or capacity as a roofing contractor without a valid
6 registration as provided in ~~this act~~ the Roofing Contractor
7 Registration Act.

8 B. A person who fails to obtain a valid registration prior to
9 acting as a roofing contractor as defined in ~~this act~~ the Roofing
10 Contractor Registration Act, a person who acts as a roofing
11 contractor while his or her registration is suspended or revoked, or
12 a person who violates any provision of ~~this act~~ the Roofing
13 Contractor Registration Act shall be guilty of a misdemeanor, upon
14 conviction, punishable by a fine not to exceed Five Hundred Dollars
15 (\$500.00) for each violation. More than one violation in any
16 twelve-month period shall be grounds for the suspension of the
17 registration, and shall cause the person to be ineligible for
18 registration for a period not to exceed twelve (12) months.

19 SECTION 2. AMENDATORY Section 5, Chapter 479, O.S.L.
20 2010 (59 O.S. Supp. 2010, Section 1151.5), is amended to read as
21 follows:

22 Section 1151.5. A. To obtain a roofing contractor registration
23 under ~~this act~~ the Roofing Contractor Registration Act, an applicant
24 who is eighteen (18) years of age or older shall submit, on forms

1 the registrar prescribes, an application under oath containing a
2 statement of the applicant's experience and qualifications as a
3 roofing contractor, if any, the applicant's name, physical address,
4 business name and address and place of incorporation, if different,
5 information on any other person who will be authorized to act as the
6 business entity, and the applicant's phone number. A copy of the
7 roofing contractor's certificate of liability insurance shall be
8 filed with the application and shall be not less than Five Hundred
9 Thousand Dollars (\$500,000.00). Any insurance company issuing a
10 liability policy to a roofing contractor pursuant to the provisions
11 of ~~this act~~ the Roofing Contractor Registration Act shall be
12 required to notify the Construction Industries Board in the event
13 such liability policy is cancelled for any reason or lapses for
14 nonpayment of premiums. All registrations granted under the Roofing
15 Contractor Registration Act shall be suspended on the date of the
16 policy cancellation. The registrar must receive proof of insurance
17 prior to restoring the registration. In addition, the roofing
18 contractor shall submit proof that the contractor has secured
19 workers' compensation coverage satisfactory under the Workers'
20 Compensation Act, or an affidavit of exemption or self-insurance as
21 authorized pursuant to the Workers' Compensation Act. If the
22 registrar deems it appropriate or necessary, the registrar may also
23 require other information to be included on the application form to
24 assist the registrar in registering the person as a contractor. The

1 application shall contain statements that the applicant desires the
2 issuance of a roofing contractor registration certificate; that the
3 applicant will comply with the provisions of ~~this act~~ the Roofing
4 Contractor Registration Act; that the applicant will comply with
5 state laws and local ordinances relating to standards and permits;
6 that the applicant has or has not been registered or licensed as a
7 roofing contractor in another state and whether any disciplinary
8 action was taken against such registration or license or whether it
9 is still in good standing; and that the nonresident applicant
10 appoints the Secretary of State as legal service agent for all
11 lawful process to be served upon the applicant for work performed in
12 this state or as otherwise provided in ~~this act~~ the Roofing
13 Contractor Registration Act.

14 B. The registrar shall refuse to register any person if the
15 registrar determines:

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

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

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

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

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1 5. The nonresident applicant has a revoked or suspended
2 registration or license required by law for roofing contractors in
3 another state; or

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

6 C. The registrar shall notify the applicant in writing if the
7 registrar denies a registration or renewal certificate, and shall
8 provide the applicant an opportunity to respond to or cure any
9 defect in the written application or renewal for a period of ten
10 (10) days from the date of the written notification. An applicant
11 aggrieved by a decision of the registrar denying a registration or
12 renewal may appeal the decision as provided in the Administrative
13 Procedures Act, or the applicant may reapply after a ninety-day
14 waiting period, if otherwise eligible under the provisions of ~~this~~
15 ~~act~~ the Roofing Contractor Registration Act. The application and
16 renewal fees shall not be refundable.

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

19 1. Maintain liability insurance coverage;

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

24

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

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

10 5. File or renew a trade name registration;

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

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

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

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

22 E. The registrar shall send a written notice to the person when
23 his or her registration is not in good standing. Any roofing
24 contractor who has been notified by the registrar that his or her

1 registration is not in good standing shall cease soliciting or
2 entering new roofing services and projects as of the date of such
3 notification; however, the roofing contractor shall be allowed to
4 complete roofing projects where actual physical work has begun prior
5 to the date of issuance of the notice that his or her registration
6 is not in good standing. The roofing contractor must disclose the
7 change in standing to any homeowner or other person who has an
8 interest in any job covered under the Roofing Contractor
9 Registration Act. Upon notice of a change in standing, the
10 homeowner shall have the option to cancel the contract. The roofing
11 contractor will be owed the actual cost incurred for materials and
12 the market value of labor already incurred on the job. The roofing
13 contractor must obtain an updated authorization from the homeowner
14 and other parties of interest if there is an agreement to continue
15 the job as originally negotiated. If the roofing contractor fails
16 to correct the deficiency specified in the notice by evidence
17 satisfactory to the registrar within thirty (30) days of the date of
18 the notice, or if the roofing contractor solicits or enters into new
19 roofing services contracts or projects while the roofing
20 contractor's registration is not in good standing, or while such
21 registration is suspended or revoked, the roofing contractor shall
22 be in violation of the provisions of ~~this act~~ the Roofing Contractor
23 Registration Act. Any registration that remains not in good
24 standing for a sixty-day period shall be suspended on the sixtieth

1 day from the date of issuance of the notice to the roofing
2 contractor that his or her registration is not in good standing.
3 Any registration that remains not in good standing, and is suspended
4 for such cause, shall be revoked on the ninetieth day from the date
5 of issuance of the notice to the roofing contractor that his or her
6 registration is not in good standing. The registrar shall notify
7 the roofing contractor upon suspension or revocation of his or her
8 registration for failure to comply in bringing such registration
9 into good standing as required by law. The roofing contractor may
10 reinstate his or her registration to good standing by paying the
11 required fees provided in Section ~~12~~ 1151.12 of this ~~act~~ title and
12 complying with all other requirements for issuance of a registration
13 in good standing. Any person aggrieved by the decision of the
14 registrar to suspend or revoke a registration pursuant to this
15 section may appeal such decision as provided in the Administrative
16 Procedures Act.

17 SECTION 3. AMENDATORY Section 7, Chapter 479, O.S.L.
18 2010 (59 O.S. Supp. 2010, Section 1151.7), is amended to read as
19 follows:

20 Section 1151.7. The holder of a roofing contractor registration
21 certificate is entitled to engage in the roofing business within
22 this state pursuant to the provisions of ~~this act~~ the Roofing
23 Contractor Registration Act, and subject to the following
24 limitations:

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

4 2. A roofing contractor's registration certificate number shall
5 be submitted when applying for any permit issued by the state, or
6 any of its political subdivisions, for commercial or residential
7 roofing services or projects, if a permit is required by such
8 authority, and shall be written upon each permit issued. Provided,
9 however, no permitting authority shall require a roofing contractor
10 registration certificate as a condition to issuing a permit when
11 registration is exempt pursuant to Section 1151.9 of this title;

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

22 4. Upon any change to the name, address, business entity, or
23 legal service agent of a roofing contractor or upon adjudication by
24 a court of competent jurisdiction for a violation of ~~this act~~ the

1 Roofing Contractor Registration Act or an act or omission specified
2 in subsection A of Section ~~14~~ 1151.14 of this ~~act~~ title, the
3 registrar shall be notified in writing;

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

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

8 SECTION 4. AMENDATORY Section 9, Chapter 479, O.S.L.
9 2010 (59 O.S. Supp. 2010, Section 1151.9), is amended to read as
10 follows:

11 Section 1151.9 A. The Roofing Contractor Registration Act does
12 not apply to:

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

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

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

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

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

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1151.21 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

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

1 effective upon deposit into the United States mail, postage prepaid
2 and properly addressed to the contractor. Notice of cancellation
3 need not take a particular form and is sufficient if it indicates,
4 by any form of written expression, the intention of the insured not
5 to be bound by the contract.

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

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

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

19 "NOTICE OF CANCELLATION

20 If your insurer denies all or any part of your claim to pay for
21 goods and services to be provided under this contract, you may
22 cancel the contract by mailing or delivering a signed and dated
23 copy of this cancellation notice or any other written notice to
24 _____ (name of contractor) at _____ (address of contractor's

1 place of business) at any time within seventy-two (72) hours
2 after you have received written notice that your claim has been
3 denied. If you cancel, any payments made by you under the
4 contract will be returned to you within ten (10) business days
5 following receipt by the contractor of your cancellation notice.

6 I HEREBY CANCEL THIS TRANSACTION

7 _____
8 (date)

9 _____
10 (insured's signature)"

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

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

22 SECTION 6. This act shall become effective July 1, 2011.

23 SECTION 7. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 2-17-11
4 - DO PASS, As Amended and Coauthored.

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