ENGROSSED SENATE
BILL NO. 1025 By: Newberry of the Senate

and

Echols of the House

An Act relating to roofing contractors; amending 59 O.S. 2011, Section 1151.2, which relates to definitions; adding and modifying definitions; requiring commercial roofer examination; providing certain components of tests; setting fee for commercial roofer endorsement; stating term of endorsement; requiring certain continuing education for renewal of endorsement; providing for suspension or revocation of endorsement; setting renewal fee; setting penalties for certain violations; setting reinstatement fee; requiring nonresident commercial roofers to take examination prior to registration; providing temporary registration during state of emergency; setting fee for temporary registration; requiring registration with the Oklahoma Tax Commission for certain purpose; stating term of temporary registration; providing for examinations during state of emergency; setting certain examination fees; allowing repeat testing; providing exemption for certain persons; stating exemption requirements; creating Roofing Examination and Review Board; stating purpose of Board; authorizing hiring of professional test designer; authorizing Governor to appoint membership; providing term of membership; providing method for reconstituting Board; stating member qualifications; making Administrator of Construction Industries Board ex officio member of Board; providing for quorum, travel reimbursement, and reappointment; authorizing the registrar to employ persons for certain purpose; authorizing registrar to promulgate rules and forms; including endorsement on roofing contractor's registration for public notification; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1151.2, is amended to read as follows:

Section 1151.2. As used in the Roofing Contractor Registration Act:

1. "Roofing contractor" means any person, including a subcontractor and nonresident contractor, 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. a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material ~~nor~~,

b. a person working under the direct supervision of the roofing contractor who is hired either as an employee, day laborer, or contract laborer, or

c. a person working on his or her residential or farm property, whether actually performing the work or using the assistance or labor of family members, relatives, neighbors or employees;

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. "Commercial roofing contractor" means any person who acts as a roofing contractor as defined in paragraph 1 of this section and who engages in such roofing services on commercial, industrial or public buildings or structures;

4. "Person" means 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~~ the Roofing Contractor Registration Act;

~~4.~~ 5. "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.~~ 6. "Registrar" means the Construction Industries Board or any person designated by the Board to administer the provisions of ~~this act~~ the Roofing Contractor Registration Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.25 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the Roofing Contractor Registration Act, on and after January 1, 2014, every commercial roofing contractor soliciting or performing roofing services in this state shall be required to take and successfully pass a commercial roofing examination approved by the Roofing Examination and Review Board before acting or being registered as a commercial roofing contractor. The commercial roofing examination shall include test questions covering professional competencies and skills on a variety of roofing structures, materials and systems, best practices, and provisions on Oklahoma law and construction codes. Once a commercial roofing contractor has successfully passed the examination, or been allowed an exemption from the examination as provided by law, the registrar shall issue a commercial roofer endorsement on the roofing contractor registration upon receipt of a fee of One Hundred Dollars ($100.00). The commercial roofer endorsement shall be valid for three (3) years. To renew the commercial roofer endorsement, the holder of the commercial roofer endorsement shall be required to attend a continuing education course approved by the Construction Industries Board covering changes to Oklahoma law regarding the Roofing Contractor Registration Act and related codes and provisions. Any fees for

attending a continuing education course shall be set by the provider and paid by the participant. Failure of the holder of a commercial roofer endorsement to attend the required courses within the prescribed three-year period shall result in the holder's commercial roofer endorsement being suspended for not more than three (3) months during which time the commercial roofing contractor may correct the deficiency and submit proof of having participated in the required continuing education course. Any commercial roofing contractor who fails to complete and submit the necessary proof of participation in the required continuing education course within the time prescribed, shall have their commercial roofer endorsement revoked by the registrar for one (1) year, after which time the commercial roofing contractor may reapply to retake the commercial roofer examination upon payment of the required fees. The renewal fee for a commercial roofer endorsement shall be Fifty Dollars ($50.00) and shall be submitted to the registrar with the proof of participation in the required continuing education courses.

B. Any person who fails to comply with the examination and continuing education requirements established in subsection A of this section shall be in violation of the Roofing Contractor Registration Act. The violator, in addition to the penalty prescribed in Section 1151.3 of Title 59 of the Oklahoma Statutes and revocation of the commercial endorsement, shall be subject to an administrative fine not less than one percent (1%) nor more than

five percent (5%) of the total amount of each roofing job solicited, bid or performed while in noncompliance with the provisions of the Roofing Registration Act. The roofing contractor registration may be suspended for a period up to three (3) years if it is determined after notice and an administrative hearing that the commercial roofing contractor has willfully failed or refused to comply with the requirements for commercial roofing contractors pursuant to the Roofing Contractor Registration Act. There shall be a reinstatement fee of Two Hundred Dollars ($200.00) for any suspended or revoked registration or endorsement.

C. All nonresident roofing contractors intending to operate or doing business in this state must be registered and comply with all provisions of the Roofing Contractor Registration Act and state laws. Each nonresident commercial roofing contractor must take and pass the commercial roofing examination prior to registration and must maintain continuing education requirements the same as required for resident commercial roofing contractors. Failure of a nonresident commercial roofing contractor to be registered or to take and pass the required commercial roofer examination or maintain continuing education requirements shall be punishable as a violation of the Roofing Contractor Registration Act and, in addition, the violator shall be subject to an administrative fine of not less than one percent (1%) nor more than five percent (5%) of each roofing job solicited, bid or performed while in noncompliance with the Roofing

Contractor Registration Act. These penalties shall be in addition to any penalty provided by Section 1707 of Title 68 of the Oklahoma Statutes which may be imposed by the Oklahoma Tax Commission, or any penalty imposed by the Oklahoma Employment Security Commission or the Workers' Compensation Code.

D. When a state of emergency is declared by the Governor, the registrar is authorized to permit nonresident roofing contractors to solicit and do business in this state under a temporary roofing contractor registration upon proper application, approval and payment of a fee of One Hundred Dollars ($100.00). A temporary roofing contractor registration card and proper registration with the Oklahoma Tax Commission must be obtained prior to soliciting, bidding or performing any roofing services in this state. The temporary registration shall be valid for six (6) months and shall be of a distinctive color or design to identify it as a temporary roofing contractor registration. Upon temporary registration each nonresident commercial roofing contractor shall be provided information on where to take the commercial roofer examination, which is required for all commercial roofing contractors. The examination shall be continuously available at scheduled locations within the first thirty-day period following the date of the declaration of emergency, and the testing period may be extended for an additional thirty-day period when deemed appropriate by the registrar. All commercial roofing contractors must pass the

commercial roofer examination within thirty (30) days of entering this state with intent to solicit, bid or perform roofing services or their roofing contractor registration will be permanently denied and revoked. The registrar shall require each applicant for a temporary roofing contractor registration to substantiate his or her prior commercial roofing experience and meet all registration requirements stated in Section 1151.5 of Title 59 of the Oklahoma Statutes, including liability insurance, workers' compensation, and registration with the Oklahoma Tax Commission. A person authorized by the registrar to take the commercial roofer examination under a temporary registration may repeat the test once within the thirty-day period if the person fails to pass the examination on a first attempt. Any person failing to comply with the requirements of the Roofing Contractor Registration Act during a state of emergency shall be subject to the misdemeanor criminal penalty provided in the Roofing Contractor Registration Act, and shall be subject to an administrative fine not less than five percent (5%) and not more than ten percent (10%) of all roofing services solicited, bid or performed during the period of noncompliance with the law.

E. The commercial roofing examination fee covering professional competencies, skills and best practices shall be One Hundred Fifty Dollars ($150.00). The examination fee covering the portion of the examination on Oklahoma law and construction codes shall be Fifty Dollars ($50.00). The commercial roofing examination may be retaken

if a first test score does not result in successful passage. No person shall take the commercial roofing examination more than twice in one year and there shall be a minimum waiting period of at least thirty (30) days between any repeat testing, except as allowed during a declared state of emergency. The commercial roofing examination shall be offered at least monthly on dates and times determined by the registrar, except as provided for a declared state of emergency.

F. 1. On January 1, 2014, the following persons may make application for an exemption to the requirement for taking and passing the commercial roofer examination:

a. the owner or owners of an established roofing, remodeling or construction business who have had an employer identification number issued to such business in this state for more than five (5) years next preceding the date of application for exemption, and who have had continuous registrations and compliance with the Oklahoma Secretary of State, the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Workers' Compensation Code, the Internal Revenue Service, and the Social Security Administration, or

b. a person currently employed by a roofing, remodeling or construction business as defined in paragraph 1 of

this subsection whose owner or owners are not making application for an exemption and who has been a supervising on-the-job foreman, manager or inspector for such business for at least five continuous years preceding the date of application for exemption.

2. The application for exemption shall be made upon a form designated by the registrar, signed and sworn upon oath by the applicant before a notary. The exemption form shall be submitted to the registrar with a nonrefundable fee of One Hundred Dollars ($100.00) and shall be approved or denied by the registrar not later than February 1, 2014, or be forever barred from exemption.

3. The documents to be submitted with an application for exemption shall include:

a. proof of valid liability insurance coverage for the commercial business entity in an amount not less than One Million Dollars ($1,000,000.00) for each of the five (5) years preceding the date of application for exemption,

b. proof of coverage and premium payments under the Workers' Compensation Code for each of the five (5) years preceding the date of application for exemption, and

c. proof of valid bonds issued to the commercial business entity in a minimum amount of Seven Hundred Fifty

Thousand Dollars ($750,000.00) for projects covering the period for each of the five (5) years preceding the date of application for exemption.

4. An exemption from taking the commercial roofer examination approved by the registrar shall grant the exemption to the designated business entity only. The exemption shall continue indefinitely provided the business continues its current operation, submits its continuing education requirements for renewal of the commercial roofer endorsement, and provides sufficient proof by documentation upon each subsequent renewal of a commercial roofer endorsement that the exemption factors still apply to the commercial business.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1151.26 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Roofing Examination and Review Board for the sole purpose of creating a state commercial roofing examination and scoring mechanism for the Roofing Contractor Registration Act. The Board shall create additional examination materials to be included as part of the commercial roofing examination which shall relate specifically to Oklahoma law and construction codes. The Board may contract with or hire a professional test designer or writer, subject to funds available.

B. The Board shall commence its work within thirty (30) days of the date of the last member appointment to the Board and shall terminate its work on the thirtieth day after the first examination date on new test materials. The Board is prohibited from conducting business after the date terminating official business until the Governor has reconstituted a new Board. The Board shall be reconstituted with the same or newly appointed members every third year not later than September 1; provided, however, the Governor may reconstitute the Board earlier than the third year if significant legislative changes have been made to the Roofing Contractor Registration Act or when the construction codes are amended. All appointments for a reconstituted Board shall be made by the Governor in the same manner as initial appointments to the Board. Each reconstituted Board shall review the current approved commercial roofing examination materials and make adjustments to the examination materials as necessary to adjust for any changes in the roofing industry, law or construction codes. Each reconstituted Board shall commence its work within thirty (30) days of the date of the last member appointment to the Board and shall terminate its work on the thirtieth day after the first examination date on the new approved test materials.

C. Members of the Roofing Examination and Review Board shall each have one vote and shall be appointed by the Governor as follows:

1. One member shall be a licensed architect with a minimum of five (5) years' experience in commercial roof design. This member shall be selected from a list of three qualified and eligible architects submitted by a state organization representing engineers;

2. Two members shall be commercial roofing contractors each with a minimum of five (5) years' actual job experience in commercial roofing in this state and who are registered pursuant to the Roofing Contractor Registration Act;

3. One member shall be an employee of the Construction and Property Division of the Oklahoma State Department of Central Services with experience in developing roofing standards or supervising roofing construction or repairs;

4. One member shall be a licensed engineer with a minimum of five (5) years' experience in commercial roof design. This member shall be selected from a list of three qualified and eligible engineers submitted by a state organization representing engineers;

5. One member shall be a general contractor with a minimum of five (5) years' experience in commercial construction. This member shall be selected from a list of three qualified and eligible general contractors submitted by a state organization representing general contractors; and

6. One member shall be an attorney residing in this state who has experience in the building and construction industry or with public works projects, bids or contracts.

D. The Administrator of the Construction Industries Board shall be a nonvoting, ex officio member of the Board.

E. The Board shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Four members shall constitute a quorum for purposes of conducting official business and business may be transacted by electronic means as deemed appropriate. Members may receive travel reimbursements as allowed by the State Travel Reimbursement Act; however, no member shall receive any other compensation for performance of Board duties. Members may be removed by the Governor for cause and any vacancy in membership may be filled for the unexpired term as provided for the initial appointment. Members shall not be limited in the number of their reappointments.

F. The registrar shall provide staff and administrative assistance to the Board to complete its duties and shall pay any travel reimbursements allowed by law for members. The registrar shall employ a person or persons to actually conduct the commercial roofing examinations, score examinations and notify the examinee of passage or failure to pass the examination. The registrar shall develop an application form and procedures for an applicant to schedule and take or retake the commercial roofing examination and may promulgate rules necessary to administer and enforce the commercial roofing provisions of the Roofing Contractor Registration Act. The registrar shall include an endorsement on each roofing

contractor's registration information when the roofing contractor has successfully passed the commercial roofing examination so the public will have notification of all successfully examined commercial roofing contractors in the roofing contractor registration database.

SECTION 4. This act shall become effective November 1, 2013.

Passed the Senate the 26th day of February, 2013.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2013.

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Presiding Officer of the House of Representatives