

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1868

6 By: Newberry of the Senate

7 and

8 Newell of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to roofing contractors; amending 59
11 O.S. 2011, Section 1151.2, which relates to
12 definitions; adding and modifying definitions;
13 requiring commercial roofer examination; providing
14 certain components of tests; setting fee for
15 commercial roofer endorsement; stating term of
16 endorsement; requiring certain continuing education
17 for renewal of endorsement; providing for suspension
18 or revocation of endorsement; setting renewal fee;
19 setting penalties for certain violations; setting
20 reinstatement fee; requiring nonresident commercial
21 roofers to take examination prior to registration;
22 providing temporary registration during state of
23 emergency; setting fee for temporary registration;
24 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

1 registrar to employ persons for certain purpose;
2 authorizing registrar to promulgate rules and forms;
3 including endorsement on roofing contractor's
4 registration for public notification; providing for
5 codification; and providing an effective date.

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

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

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

11 1. "Roofing contractor" means any person, including a
12 subcontractor and nonresident contractor, engaged in the business of
13 commercial or residential roofing services for a fee, or who offers
14 to engage in or solicits roofing-related services, including
15 construction, installation, renovation, repair, maintenance,
16 alteration, and waterproofing. Roofing contractor shall not mean:

17 a. a person engaged in the demolition of a structure or
18 the cleanup of construction waste and debris that
19 contains roofing material ~~nor,~~

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

23 c. a person working on his or her residential or farm
24 property, whether actually performing the work or

1 using the assistance or labor of family members,
2 relatives, neighbors or employees;

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

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

12 4. "Person" means any individual, firm, partnership,
13 association, corporation, limited liability company, or other group
14 or combination thereof acting as a unit, unless the intent to give a
15 more limited meaning is disclosed clearly by ~~this act~~ the Roofing
16 Contractor Registration Act;

17 ~~4.~~ 5. "Public contract" means a contract with the State of
18 Oklahoma, its political subdivisions, or any board, commission, or
19 department thereof, or with any board of county commissioners, or
20 with any city council, school board, or with any state or municipal
21 agency, or with any other public board, body, commission, or agency
22 authorized to award contracts for the construction or reconstruction
23 of public work and includes subcontracts undertaken to perform works
24 covered by the original contract or any part thereof; and

1 ~~5.~~ 6. "Registrar" means the Construction Industries Board or
2 any person designated by the Board to administer the provisions of
3 ~~this act~~ the Roofing Contractor Registration Act.

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

7 A. Except as otherwise provided in the Roofing Contractor
8 Registration Act, on and after January 1, 2014, every commercial
9 roofing contractor soliciting or performing roofing services in this
10 state shall be required to take and successfully pass a commercial
11 roofing examination approved by the Roofing Examination and Review
12 Board before acting or being registered as a commercial roofing
13 contractor. The commercial roofing examination shall include test
14 questions covering professional competencies and skills on a variety
15 of roofing structures, materials and systems, best practices, and
16 provisions on Oklahoma law and construction codes. Once a
17 commercial roofing contractor has successfully passed the
18 examination, or been allowed an exemption from the examination as
19 provided by law, the registrar shall issue a commercial roofer
20 endorsement on the roofing contractor registration upon receipt of a
21 fee of One Hundred Dollars (\$100.00). The commercial roofer
22 endorsement shall be valid for three (3) years. To renew the
23 commercial roofer endorsement, the holder of the commercial roofer
24 endorsement shall be required to attend a continuing education

1 course approved by the Construction Industries Board covering
2 changes to Oklahoma law regarding the Roofing Contractor
3 Registration Act and related codes and provisions. Any fees for
4 attending a continuing education course shall be set by the provider
5 and paid by the participant. Failure of the holder of a commercial
6 roofer endorsement to attend the required courses within the
7 prescribed three-year period shall result in the holder's commercial
8 roofer endorsement being suspended for not more than three (3)
9 months during which time the commercial roofing contractor may
10 correct the deficiency and submit proof of having participated in
11 the required continuing education course. Any commercial roofing
12 contractor who fails to complete and submit the necessary proof of
13 participation in the required continuing education course within the
14 time prescribed, shall have their commercial roofer endorsement
15 revoked by the registrar for one (1) year, after which time the
16 commercial roofing contractor may reapply to retake the commercial
17 roofer examination upon payment of the required fees. The renewal
18 fee for a commercial roofer endorsement shall be Fifty Dollars
19 (\$50.00) and shall be submitted to the registrar with the proof of
20 participation in the required continuing education courses.

21 B. Any person who fails to comply with the examination and
22 continuing education requirements established in subsection A of
23 this section shall be in violation of the Roofing Contractor
24 Registration Act. The violator, in addition to the penalty

1 prescribed in Section 1151.3 of Title 59 of the Oklahoma Statutes
2 and revocation of the commercial endorsement, shall be subject to an
3 administrative fine not less than one percent (1%) nor more than
4 five percent (5%) of the total amount of each roofing job solicited,
5 bid or performed while in noncompliance with the provisions of the
6 Roofing Registration Act. The roofing contractor registration may
7 be suspended for a period up to three (3) years if it is determined
8 after notice and an administrative hearing that the commercial
9 roofing contractor has willfully failed or refused to comply with
10 the requirements for commercial roofing contractors pursuant to the
11 Roofing Contractor Registration Act. There shall be a reinstatement
12 fee of Two Hundred Dollars (\$200.00) for any suspended or revoked
13 registration or endorsement.

14 C. All nonresident roofing contractors intending to operate or
15 doing business in this state must be registered and comply with all
16 provisions of the Roofing Contractor Registration Act and state
17 laws. Each nonresident commercial roofing contractor must take and
18 pass the commercial roofing examination prior to registration and
19 must maintain continuing education requirements the same as required
20 for resident commercial roofing contractors. Failure of a
21 nonresident commercial roofing contractor to be registered or to
22 take and pass the required commercial roofer examination or maintain
23 continuing education requirements shall be punishable as a violation
24 of the Roofing Contractor Registration Act and, in addition, the

1 violator shall be subject to an administrative fine of not less than
2 one percent (1%) nor more than five percent (5%) of each roofing job
3 solicited, bid or performed while in noncompliance with the Roofing
4 Contractor Registration Act. These penalties shall be in addition
5 to any penalty provided by Section 1707 of Title 68 of the Oklahoma
6 Statutes which may be imposed by the Oklahoma Tax Commission, or any
7 penalty imposed by the Oklahoma Employment Security Commission or
8 the Workers' Compensation Code.

9 D. When a state of emergency is declared by the Governor, the
10 registrar is authorized to permit nonresident roofing contractors to
11 solicit and do business in this state under a temporary roofing
12 contractor registration upon proper application, approval and
13 payment of a fee of One Hundred Dollars (\$100.00). A temporary
14 roofing contractor registration card and proper registration with
15 the Oklahoma Tax Commission must be obtained prior to soliciting,
16 bidding or performing any roofing services in this state. The
17 temporary registration shall be valid for six (6) months and shall
18 be of a distinctive color or design to identify it as a temporary
19 roofing contractor registration. Upon temporary registration each
20 nonresident commercial roofing contractor shall be provided
21 information on where to take the commercial roofer examination,
22 which is required for all commercial roofing contractors. The
23 examination shall be continuously available at scheduled locations
24 within the first thirty-day period following the date of the

1 declaration of emergency, and the testing period may be extended for
2 an additional thirty-day period when deemed appropriate by the
3 registrar. All commercial roofing contractors must pass the
4 commercial roofer examination within thirty (30) days of entering
5 this state with intent to solicit, bid or perform roofing services
6 or their roofing contractor registration will be permanently denied
7 and revoked. The registrar shall require each applicant for a
8 temporary roofing contractor registration to substantiate his or her
9 prior commercial roofing experience and meet all registration
10 requirements stated in Section 1151.5 of Title 59 of the Oklahoma
11 Statutes, including liability insurance, workers' compensation, and
12 registration with the Oklahoma Tax Commission. Upon registration a
13 person authorized by the registrar to take the commercial roofer
14 examination under a temporary registration may repeat the test once
15 within the thirty-day period if the person fails to pass the
16 examination on a first attempt. Any person failing to comply with
17 the requirements of the Roofing Contractor Registration Act during a
18 state of emergency shall be subject to the misdemeanor criminal
19 penalty provided in the Roofing Contractor Registration Act, and
20 shall be subject to an administrative fine not less than five
21 percent (5%) and not more than ten percent (10%) of all roofing
22 services solicited, bid or performed during the period of
23 noncompliance with the law.

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1 E. The commercial roofing examination fee covering professional
2 competencies, skills and best practices shall be One Hundred Fifty
3 Dollars (\$150.00). The examination fee covering the portion of the
4 examination on Oklahoma law and construction codes shall be Fifty
5 Dollars (\$50.00). The commercial roofing examination may be retaken
6 if a first test score does not result in successful passage. No
7 person shall take the commercial roofing examination more than twice
8 in one year and there shall be a minimum waiting period of at least
9 thirty (30) days between any repeat testing, except as allowed
10 during a declared state of emergency. The commercial roofing
11 examination shall be offered at least monthly on dates and times
12 determined by the registrar, except as provided for a declared state
13 of emergency.

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

17 a. the owner or owners of an established roofing,
18 remodeling or construction business who have had an
19 employer identification number issued to such business
20 in this state for more than five (5) years next
21 preceding the date of application for exemption, and
22 who have had continuous registrations and compliance
23 with the Oklahoma Secretary of State, the Oklahoma Tax
24 Commission, the Oklahoma Employment Security

1 Commission, the Workers' Compensation Code, the
2 Internal Revenue Service, and the Social Security
3 Administration, or

4 b. a person currently employed by a roofing, remodeling
5 or construction business as defined in paragraph 1 of
6 this subsection whose owner or owners are not making
7 application for an exemption and who has been a
8 supervising on-the-job foreman, manager or inspector
9 for such business for at least five continuous years
10 preceding the date of application for exemption.

11 2. The application for exemption shall be made upon a form
12 designated by the registrar, signed and sworn upon oath by the
13 applicant before a notary. The exemption form shall be submitted to
14 the registrar with a nonrefundable fee of One Hundred Dollars
15 (\$100.00) and shall be approved or denied by the registrar not later
16 than February 1, 2014, or be forever barred from exemption.

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

19 a. proof of valid liability insurance coverage for the
20 commercial business entity in an amount not less than
21 One Million Dollars (\$1,000,000.00) for each of the
22 five (5) years preceding the date of application for
23 exemption,
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- 1 b. proof of coverage and premium payments under the
2 Workers' Compensation Code for each of the five (5)
3 years preceding the date of application for exemption,
4 and
5 c. proof of valid bonds issued to the commercial business
6 entity in a minimum amount of Seven Hundred Fifty
7 Thousand Dollars (\$750,000.00) for projects covering
8 the period for each of the five (5) years preceding
9 the date of application for exemption.

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

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

22 A. There is hereby created the Roofing Examination and Review
23 Board for the sole purpose of creating a state commercial roofing
24 examination and scoring mechanism for the Roofing Contractor

1 Registration Act. The Board shall create additional examination
2 materials to be included as part of the commercial roofing
3 examination which shall relate specifically to Oklahoma law and
4 construction codes. The Board may contract with or hire a
5 professional test designer or writer, subject to funds available.

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

1 work on the thirtieth day after the first examination date on the
2 new approved test materials.

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

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

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

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

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

22 5. One member shall be a general contractor with a minimum of
23 five (5) years' experience in commercial construction. This member
24 shall be selected from a list of three qualified and eligible

1 general contractors submitted by a state organization representing
2 general contractors; and

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

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

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

19 F. The registrar shall provide staff and administrative
20 assistance to the Board to complete its duties and shall pay any
21 travel reimbursements allowed by law for members. The registrar
22 shall employ a person or persons to actually conduct the commercial
23 roofing examinations, score examinations and notify the examinee of
24 passage or failure to pass the examination. The registrar shall

1 develop an application form and procedures for an applicant to
2 schedule and take or retake the commercial roofing examination and
3 may promulgate rules necessary to administer and enforce the
4 commercial roofing provisions of the Roofing Contractor Registration
5 Act. The registrar shall include an endorsement on each roofing
6 contractor's registration information when the roofing contractor
7 has successfully passed the commercial roofing examination so the
8 public will have notification of all successfully examined
9 commercial roofing contractors in the roofing contractor
10 registration database.

11 SECTION 4. This act shall become effective November 1, 2012.

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