

1 **SENATE FLOOR VERSION**

2 February 14, 2013

3 SENATE BILL NO. 1025

By: Newberry of the Senate

4 and

5 Echols of the House

6
7
8 An Act relating to roofing contractors; amending 59
9 O.S. 2011, Section 1151.2, which relates to
10 definitions; adding and modifying definitions;
11 requiring commercial roofer examination; providing
12 certain components of tests; setting fee for
13 commercial roofer endorsement; stating term of
14 endorsement; requiring certain continuing education
15 for renewal of endorsement; providing for suspension
16 or revocation of endorsement; setting renewal fee;
17 setting penalties for certain violations; setting
18 reinstatement fee; requiring nonresident commercial
19 roofers to take examination prior to registration;
20 providing temporary registration during state of
21 emergency; setting fee for temporary registration;
22 requiring registration with the Oklahoma Tax
23 Commission for certain purpose; stating term of
24 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

1 public notification; providing for codification; and
2 providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

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

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

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

15 ~~4.~~ 5. "Public contract" means a contract with the State of
16 Oklahoma, its political subdivisions, or any board, commission, or
17 department thereof, or with any board of county commissioners, or
18 with any city council, school board, or with any state or municipal
19 agency, or with any other public board, body, commission, or agency
20 authorized to award contracts for the construction or reconstruction
21 of public work and includes subcontracts undertaken to perform works
22 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. A person authorized
13 by the registrar to take the commercial roofer examination under a
14 temporary registration may repeat the test once within the thirty-
15 day period if the person fails to pass the examination on a first
16 attempt. Any person failing to comply with the requirements of the
17 Roofing Contractor Registration Act during a state of emergency
18 shall be subject to the misdemeanor criminal penalty provided in the
19 Roofing Contractor Registration Act, and shall be subject to an
20 administrative fine not less than five percent (5%) and not more
21 than ten percent (10%) of all roofing services solicited, bid or
22 performed during the period of noncompliance with the law.

23 E. The commercial roofing examination fee covering professional
24 competencies, skills and best practices shall be One Hundred Fifty

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

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

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

1 Internal Revenue Service, and the Social Security
2 Administration, or

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

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

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

- 18 a. proof of valid liability insurance coverage for the
19 commercial business entity in an amount not less than
20 One Million Dollars (\$1,000,000.00) for each of the
21 five (5) years preceding the date of application for
22 exemption,
23 b. proof of coverage and premium payments under the
24 Workers' Compensation Code for each of the five (5)

1 years preceding the date of application for exemption,
2 and

3 c. proof of valid bonds issued to the commercial business
4 entity in a minimum amount of Seven Hundred Fifty
5 Thousand Dollars (\$750,000.00) for projects covering
6 the period for each of the five (5) years preceding
7 the date of application for exemption.

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

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

20 A. There is hereby created the Roofing Examination and Review
21 Board for the sole purpose of creating a state commercial roofing
22 examination and scoring mechanism for the Roofing Contractor
23 Registration Act. The Board shall create additional examination
24 materials to be included as part of the commercial roofing

1 examination which shall relate specifically to Oklahoma law and
2 construction codes. The Board may contract with or hire a
3 professional test designer or writer, subject to funds available.

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

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

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

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

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

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

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

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

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

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

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
11 February 14, 2013 - DO PASS
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