

SECOND REGULAR SESSION

HOUSE BILL NO. 2028

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOUX.

5494H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 621.045, RSMo, and to enact in lieu thereof fourteen new sections relating to the registering of roofing contractors, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 621.045, RSMo, is repealed and fourteen new sections enacted in lieu thereof, to be known as sections 341.300, 341.305, 341.310, 341.315, 341.320, 341.323, 341.325, 341.330, 341.333, 341.335, 341.340, 341.345, 341.350, and 621.045, to read as follows:

341.300. As used in sections 341.300 to 341.345, the following terms shall mean:

(1) "Department", the department of insurance, financial institutions and professional registration;

(2) "Out-of-state applicant", any applicant who has not established and maintained a place of business as a registered roofing contractor in this state within the preceding year or has not submitted an income tax return as a resident of this state within the preceding year;

(3) "Person", any individual, firm, partnership, association, corporation, limited liability company, or other group or combination thereof acting as a unit;

(4) "Roofing contractor", one who has the experience, knowledge, and skill to construct, reconstruct, alter, maintain, and repair roofs and use materials and items used in the construction, reconstruction, alteration, maintenance, and repair of all kinds of roofing and waterproofing as related to roofing, all in such manner to comply with all plans, specifications, codes, laws, and regulations applicable thereto.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

341.305. 1. Beginning January 1, 2020, a person who practices or offers services as a roofing contractor in this state for compensation or uses any title, sign, abbreviation, card, or device to indicate that such person is a roofing contractor may register with the department according to the provisions of sections 341.300 to 341.345.

2. The department shall not register the following persons as a roofing contractor under sections 341.300 to 341.345:

(1) Persons subcontracted by a registered roofing contractor;

(2) The owner of property acting as a home improvement contractor; or

(3) Persons licensed by another state agency performing work within the scope of their license and the roof repair does not exceed two thousand dollars, including electricians, plumbers, and HVAC contractors.

341.310. 1. There is hereby created in the state treasury the "Roofing Contractor Fund", which shall consist of moneys collected under sections 341.300 to 341.345. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the administration of sections 341.300 to 341.345.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

341.315. The department is authorized to promulgate rules and regulations necessary for the administration of sections 341.300 to 341.345, including regulations regarding:

(1) The content of registration applications and the procedures for filing an application for an initial or renewal registration in this state;

(2) All applicable fees set at a level to produce revenue, which shall not exceed the cost and expense of administering the provisions of sections 341.300 to 341.345; and

(3) The hiring of employees, who administer and oversee the requirements of sections 341.300 to 341.345, and who may investigate any alleged misconduct under sections 341.300 to 341.345. Persons hired under this subdivision shall be paid out of the roofing contractor fund established under section 341.310.

341.320. 1. An applicant for registration as a roofing contractor shall submit to the department a completed application furnished by the department accompanied by the

3 required nonrefundable fee of no more than two hundred dollars or a renewal fee to be
4 determined by the department. Such application shall include the applicant's name,
5 business name, evidence of insurance as required under subsection 3 of this section, a
6 telephone number, a street address, and such pertinent information as the department may
7 require.

8 2. An applicant shall have ninety days from the day the application is submitted to
9 complete the application process or else the application shall be automatically denied and
10 any fees paid by the applicant forfeited. Such applicant shall then reapply in order to
11 obtain a certificate of registration.

12 3. No certificate of registration shall be issued or renewed unless the applicant files
13 with the department proof of motor vehicle insurance for all business vehicles, a current
14 worker's compensation insurance policy, and liability insurance with a minimum level of
15 coverage of not less than one million dollars.

16 4. No certificate of registration shall be issued if an out-of-state applicant has had
17 a license revoked or suspended in another state.

18 5. No certificate of registration shall be issued unless an applicant or out-of-state
19 applicant has a no tax due statement from the department of revenue.

 341.323. An insurance company issuing a liability insurance policy to a roofing
2 contractor under the provisions of section 341.320 shall notify the department in the event
3 such liability insurance policy is canceled or lapses for any reason.

 341.325. The department shall promulgate rules to implement the provisions of
2 sections 341.300 to 341.345. Any rule or portion of a rule, as that term is defined in section
3 536.010, that is created under the authority delegated in this section shall become effective
4 only if it complies with and is subject to all of the provisions of chapter 536 and, if
5 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
6 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
7 the effective date, or to disapprove and annul a rule are subsequently held
8 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
9 after August 28, 2018, shall be invalid and void.

 341.330. A registered roofing contractor shall affix the roofing contractor
2 certificate of registration number and the registrant's name, as it appears on the certificate
3 of registration, to all of his or her contracts and bids. In addition, the official issuing
4 building permits shall affix the roofing contractor's registration number to each
5 application for a building permit and on each building permit issued and recorded.

 341.333. Any complaint received by the department concerning a person who is the
2 holder of a certificate of registration issued under sections 341.300 to 341.345 or any

3 complaint regarding the offering of roofing contractor services shall be recorded as
4 received and the date received. The department shall investigate all complaints concerning
5 alleged violations of the provisions of sections 341.300 to 341.345 or if there are grounds
6 for the suspension, revocation, or refusal to issue any certificate of registration.

341.335. 1. The department may refuse to issue or renew or may suspend or revoke
2 a roofing contractor certificate of registration for failing to meet the requirements of
3 section 341.320 or for one or any combination of causes stated in subsection 2 of this
4 section. The department shall notify the applicant in writing of the reasons for the refusal
5 and shall advise the applicant of his or her right to file a complaint with the administrative
6 hearing commission as provided by chapter 621. Notification shall be deemed sufficient
7 if mailed, first class, to the address listed on the application for registration or renewal by
8 the applicant.

9 2. The department may file a complaint with the administrative hearing
10 commission against any holder of a certificate of registration for any one or combination
11 of the following causes:

- 12 (1) Impersonation of any person holding a roofing contractor certificate of
13 registration or knowingly allowing any person to use his or her certificate of registration;
14 (2) Issuance of a certificate of registration based upon a material mistake of fact;
15 (3) Failure to affix the roofing contractor certificate of registration number and
16 registrant's name on all contracts and bids, in accordance with section 341.330; or
17 (4) Providing another person with a false registration number.

341.340. 1. The department shall maintain a list of roofing contractors with current
2 certificates of registration on its website.

3 2. The department shall provide notice to the public after a natural disaster that
4 roofing contractors may register with the state. Such notice shall include the use of
5 advertisements and public service announcements in print, broadcast television, radio, and
6 cable television media, as well as the posting of information on the department's website.
7 Advertising expenses under this subsection shall be paid out of the roofing contractor fund
8 established under section 341.320. If there are insufficient funds to cover the cost of
9 advertising, the department shall pay for such expenses out of its annual appropriation.

341.345. Any person found in violation of sections 341.300 to 341.345 shall be found
2 guilty of a class D misdemeanor. A second conviction for violating sections 341.300 to
3 341.345 within ten years after the first conviction shall be a class B misdemeanor.

341.350. The provisions of sections 341.300 to 341.345 shall expire on August 29,
2 2023.

621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license **or certificate of registration** issued by any of the following agencies may be revoked or suspended or when the licensee **or registrant** may be placed on probation or when an agency refuses to permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a license **or certificate of registration** of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure **or registration** without examination:

Missouri State Board of Accountancy
Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects
Board of Barber Examiners
Board of Cosmetology
Board of Chiropody and Podiatry
Board of Chiropractic Examiners
Missouri Dental Board
Board of Embalmers and Funeral Directors
Board of Registration for the Healing Arts
Board of Nursing
Board of Optometry
Board of Pharmacy
Missouri Real Estate Commission
Missouri Veterinary Medical Board
Supervisor of Liquor Control
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076.

35 4. Notwithstanding any other provision of this section to the contrary, after August 28,
36 1995, in order to encourage settlement of disputes between any agency described in subsection
37 1 or 2 of this section and its licensees **or registrants**, any such agency shall:

38 (1) Provide the licensee **or registrant** with a written description of the specific conduct
39 for which discipline is sought and a citation to the law and rules allegedly violated, together with
40 copies of any documents which are the basis thereof and the agency's initial settlement offer, or
41 file a contested case against the licensee **or registrant**;

42 (2) If no contested case has been filed against the licensee **or registrant**, allow the
43 licensee **or registrant** at least sixty days, from the date of mailing, to consider the agency's initial
44 settlement offer and to contact the agency to discuss the terms of such settlement offer;

45 (3) If no contested case has been filed against the licensee **or registrant**, advise the
46 licensee **or registrant** that the licensee **or registrant** may, either at the time the settlement
47 agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the
48 administrative hearing commission for determination that the facts agreed to by the parties to the
49 settlement constitute grounds for denying or disciplining the license of the licensee **or the**
50 **certificate of registration of the registrant**; and

51 (4) In any contact under this subsection by the agency or its counsel with a licensee **or**
52 **registrant** who is not represented by counsel, advise the licensee **or registrant** that the licensee
53 **or registrant** has the right to consult an attorney at the licensee's **or registrant's** own expense.

54 5. If the licensee **or registrant** desires review by the administrative hearing commission
55 under subdivision (3) of subsection 4 of this section at any time prior to the settlement becoming
56 final, the licensee may rescind and withdraw from the settlement and any admissions of fact or
57 law in the agreement shall be deemed withdrawn and not admissible for any purposes under the
58 law against the licensee. Any settlement submitted to the administrative hearing commission
59 shall not be effective and final unless and until findings of fact and conclusions of law are
60 entered by the administrative hearing commission that the facts agreed to by the parties to the
61 settlement constitute grounds for denying or disciplining the license of the licensee.

62 6. When a holder of a license, registration, permit, or certificate of authority issued by
63 the division of professional registration or a board, commission, or committee of the division of
64 professional registration against whom an affirmative decision is sought has failed to plead or
65 otherwise respond in the contested case and adequate notice has been given under sections
66 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this
67 chapter or chapter 536, a default decision shall be entered against the licensee without further
68 proceedings. The default decision shall grant such relief as requested by the division of
69 professional registration, board, committee, commission, or office in the writing initiating the
70 contested case as allowed by law. Upon motion stating facts constituting a meritorious defense

71 and for good cause shown, a default decision may be set aside. The motion shall be made within
72 a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause"
73 includes a mistake or conduct that is not intentionally or recklessly designed to impede the
74 administrative process.

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