

FIRST REGULAR SESSION

# HOUSE BILL NO. 170

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GANNON.

0356H.011

DANA RADEMAN MILLER, Chief Clerk

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## 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.

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*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Section A. Section 621.045, RSMo, is repealed and fourteen new sections enacted in lieu thereof, to be known as sections 324.800, 324.805, 324.810, 324.815, 324.820, 324.825, 324.830, 324.835, 324.840, 324.845, 324.850, 324.855, 324.860, and 621.045, to read as follows:

**324.800. As used in sections 324.800 to 324.860, the following terms 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.

15 (5) "Storm event", any instance in which the National Weather Service has issued  
16 a severe thunderstorm warning, tornado warning, or high wind warning, and has received  
17 reports of damage to structures or vehicles on the National Weather Service's storm  
18 reports webpage.

324.805. 1. Beginning January 1, 2021, a person who practices or offers services  
2 as a roofing contractor in this state for compensation or uses any title, sign, abbreviation,  
3 card, or device to indicate that such person is a roofing contractor may register with the  
4 department according to the provisions of sections 324.800 to 324.860.

5 2. The department shall not register persons under sections 324.800 to 324.860 who  
6 only perform subcontracted work for a registered roofing contractor.

324.810. 1. There is hereby created in the state treasury the "Roofing Contractor  
2 Fund", which shall consist of moneys collected under sections 324.800 to 324.860. The state  
3 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,  
4 the state treasurer shall approve disbursements. The fund shall be a dedicated fund and,  
5 upon appropriation, moneys in the fund shall be used solely for the administration of  
6 sections 324.800 to 324.860.

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

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

324.815. The department is authorized to promulgate rules and regulations  
2 necessary for the administration of sections 324.800 to 324.860, including regulations  
3 regarding:

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

6 (2) All applicable fees set at a level to produce revenue, which shall not exceed the  
7 cost and expense of administering the provisions of sections 324.800 to 324.860; and

8 (3) The hiring of employees who administer and oversee the requirements of  
9 sections 324.800 to 324.860, and who may investigate any alleged misconduct under  
10 sections 324.800 to 324.860. Persons hired under this subdivision shall be paid out of the  
11 roofing contractor fund established under section 324.810.

324.820. 1. An applicant for registration as a roofing contractor shall submit to the  
2 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 after 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 and unless an applicant or out-of-state  
16 applicant has a no tax due statement from the department of revenue.

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

19       5. No political subdivision of this state shall require a roofing contractor to be  
20 registered under sections 324.800 to 324.860 in order to operate as a roofing contractor  
21 within the boundaries of such political subdivision. No political subdivision of this state  
22 shall require the inspection of a roof more than one time if the cost to construct or repair  
23 such roof is less than ten thousand dollars.

      324.825. If a registered roofing contractor is found to be operating without the  
2 insurance required under subsection 3 of section 324.820, the contractor's certificate of  
3 registration shall be suspended until the contractor furnishes proof of proper insurance  
4 to the department. Additionally, such contractor shall be required to report proof of such  
5 insurance to the department quarterly for two consecutive years.

      324.830. The department shall promulgate rules to implement the provisions of  
2 sections 324.800 to 324.860. 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, 2019, shall be invalid and void.

324.835. A registered roofing contractor shall affix the roofing contractor certificate of registration number and the registrant's name, as it appears on the certificate of registration, to all of his or her contracts and bids.

324.840. Any complaint received by the department concerning a person who is the holder of a certificate of registration issued under sections 324.800 to 324.860 or any complaint regarding the offering of roofing contractor services shall be recorded as received and the date received. The department shall investigate all complaints concerning alleged violations of the provisions of sections 324.800 to 324.860 or if there are grounds for the suspension, revocation, or refusal to issue any certificate of registration.

324.845. 1. The department may refuse to issue or renew, or may suspend or revoke a roofing contractor certificate of registration for failing to meet the requirements of section 324.820 or for one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621. Notification shall be deemed sufficient if mailed, first class, to the address listed on the application for registration or renewal by the applicant.

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

(1) Impersonation of any person holding a roofing contractor certificate of registration or knowingly allowing any person to use his or her certificate of registration;

(2) Issuance of a certificate of registration based upon a material mistake of fact;

(3) Failure to affix the roofing contractor certificate of registration number and registrant's name on all contracts and bids, in accordance with section 324.835;

(4) Providing another person with a false registration number; or

(5) Abandoning a contract, without returning the deposit, by not completing the contracted scope of work.

324.850. 1. The department shall maintain a list of roofing contractors with current certificates of registration on its website. The inclusion of a roofing contractor on such list does not constitute an endorsement by the department.

2. The department shall provide notice after a storm event occurs to inform members of the public that roofing contractors may register with the state. The notice shall be limited to the parts of the state where the storm event occurred. Such notice shall be posted on the department's website. In addition, such notice shall be given in a rapid response, cost effective manner, in a format to be determined at the discretion of the

9 department, which may include the use of advertisements and public service  
 10 announcements in print, radio, television, and online media. Expenses for the notice under  
 11 this subsection shall be paid out of the roofing contractor fund established under section  
 12 324.810.

13 3. The department shall make available to the public on its website the  
 14 requirements for obtaining a certificate of registration set forth in section 324.820.

324.855. Any person found in violation of sections 324.800 to 324.860 shall be found  
 2 guilty of a class D misdemeanor. A second conviction for violating sections 324.800 to  
 3 324.860 within ten years after the first conviction shall be a class B misdemeanor.

324.860. The provisions of sections 324.800 to 324.860 shall expire on August 29,  
 2 2024.

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

- 8 Missouri State Board of Accountancy
- 9 Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors
- 10 and Landscape Architects
- 11 Board of Barber Examiners
- 12 Board of Cosmetology
- 13 Board of Chiropody and Podiatry
- 14 Board of Chiropractic Examiners
- 15 Missouri Dental Board
- 16 Board of Embalmers and Funeral Directors
- 17 Board of Registration for the Healing Arts
- 18 Board of Nursing
- 19 Board of Optometry
- 20 Board of Pharmacy
- 21 Missouri Real Estate Commission
- 22 Missouri Veterinary Medical Board
- 23 Supervisor of Liquor Control
- 24 Department of Health and Senior Services
- 25 Department of Insurance, Financial Institutions and Professional Registration

26 Department of Mental Health  
27 Board of Private Investigator Examiners.

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

31 3. The administrative hearing commission is authorized to conduct hearings and make  
32 findings of fact and conclusions of law in those cases brought by the Missouri state board for  
33 architects, professional engineers, professional land surveyors and landscape architects against  
34 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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