

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 790

99TH GENERAL ASSEMBLY

Reported from the Committee on Professional Registration, April 30, 2018, with recommendation that the Senate Committee Substitute do pass.

5409S.06C

ADRIANE D. CROUSE, Secretary.

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Section A. Section 621.045, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 324.800, 324.805, 324.810, 324.815, 324.820, 324.825, 324.830, 324.835, 324.840,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 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;

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

 324.805. 1. Beginning January 1, 2020, a person who practices or
2 offers services as a roofing contractor in this state for compensation or
3 uses any title, sign, abbreviation, card, or device to indicate that such
4 person is a roofing contractor may register with the department
5 according to the provisions of sections 324.800 to 324.860.

6 2. The department shall not register the following persons as a
7 roofing contractor under sections 324.800 to 324.860:

8 (1) Persons subcontracted by a registered roofing contractor; or

9 (2) The owner of property acting as a home improvement
10 contractor.

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

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

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

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

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

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

10 (3) The hiring of employees, who administer and oversee the

11 requirements of sections 324.800 to 324.860, and who may investigate
12 any alleged misconduct under sections 324.800 to 324.860. Persons
13 hired under this subdivision shall be paid out of the roofing contractor
14 fund established under section 324.810.

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

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

14 3. No certificate of registration shall be issued or renewed unless
15 the applicant files with the department proof of motor vehicle
16 insurance for all business vehicles, a current worker's compensation
17 insurance policy, and liability insurance with a minimum level of
18 coverage of not less than one million dollars and unless an applicant or
19 out-of-state applicant has a no tax due statement from the department
20 of revenue.

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

324.825. An insurance company issuing a liability insurance
2 policy to a roofing contractor pursuant to the provisions of section
3 324.820 shall notify the department in the event such liability insurance
4 policy is canceled or lapses for any reason.

324.830. The department shall promulgate rules to implement the
2 provisions of sections 324.800 to 324.860. Any rule or portion of a rule,
3 as that term is defined in section 536.010, that is created under the
4 authority delegated in this section shall become effective only if it
5 complies with and is subject to all of the provisions of chapter 536, and,
6 if applicable, section 536.028. This section and chapter 536 are
7 nonseverable, and if any of the powers vested with the general

8 assembly pursuant to chapter 536 to review, to delay the effective date,
9 or to disapprove and annul a rule are subsequently held
10 unconstitutional, then the grant of rulemaking authority and any rule
11 proposed or adopted after August 28, 2018, shall be invalid and void.

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

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

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

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

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

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

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

- 22 **(4) Providing another person with a false registration number;**
23 **or**
24 **(5) Abandoning a contract, without returning the deposit, by not**
25 **completing the contracted scope of work.**

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

5 **2. The department shall provide notice after a storm event**
6 **occurs to inform members of the public that roofing contractors may**
7 **register with the state. The notice shall be limited to the parts of the**
8 **state where the storm event occurred. Such notice shall be posted on**
9 **the department's website. In addition, such notice shall be given in a**
10 **rapid response, cost effective manner, in a format to be determined at**
11 **the discretion of the department, which may include the use of**
12 **advertisements and public service announcements in print, radio,**
13 **television, and online media. Expenses for the notice under this**
14 **subsection shall be paid out of the roofing contractor fund established**
15 **under section 324.810.**

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

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

324.860. The provisions of sections 324.800 to 324.860 shall expire
2 **on August 29, 2023.**

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

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

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

34 3. The administrative hearing commission is authorized to conduct
35 hearings and make findings of fact and conclusions of law in those cases brought
36 by the Missouri state board for architects, professional engineers, professional
37 land surveyors and landscape architects against unlicensed persons under section
38 327.076.

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

43 (1) Provide the licensee **or registrant** with a written description of the
44 specific conduct for which discipline is sought and a citation to the law and rules
45 allegedly violated, together with copies of any documents which are the basis

46 thereof and the agency's initial settlement offer, or file a contested case against
47 the licensee **or registrant**;

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

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

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

63 5. If the licensee **or registrant** desires review by the administrative
64 hearing commission under subdivision (3) of subsection 4 of this section at any
65 time prior to the settlement becoming final, the licensee may rescind and
66 withdraw from the settlement and any admissions of fact or law in the agreement
67 shall be deemed withdrawn and not admissible for any purposes under the law
68 against the licensee. Any settlement submitted to the administrative hearing
69 commission shall not be effective and final unless and until findings of fact and
70 conclusions of law are entered by the administrative hearing commission that the
71 facts agreed to by the parties to the settlement constitute grounds for denying or
72 disciplining the license of the licensee.

73 6. When a holder of a license, registration, permit, or certificate of
74 authority issued by the division of professional registration or a board,
75 commission, or committee of the division of professional registration against
76 whom an affirmative decision is sought has failed to plead or otherwise respond
77 in the contested case and adequate notice has been given under sections 536.067
78 and 621.100 upon a properly pled writing filed to initiate the contested case
79 under this chapter or chapter 536, a default decision shall be entered against the
80 licensee without further proceedings. The default decision shall grant such relief
81 as requested by the division of professional registration, board, committee,

82 commission, or office in the writing initiating the contested case as allowed by
83 law. Upon motion stating facts constituting a meritorious defense and for good
84 cause shown, a default decision may be set aside. The motion shall be made
85 within a reasonable time, not to exceed thirty days after entry of the default
86 decision. "Good cause" includes a mistake or conduct that is not intentionally or
87 recklessly designed to impede the administrative process.

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