

An Act

ENROLLED SENATE
BILL NO. 1535

By: Griffin of the Senate

and

Osburn (Mike) of the House

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 1151.2, as amended by Section 1, Chapter 270, O.S.L. 2014 and 1151.9, as amended by Section 7, Chapter 270, O.S.L. 2014 (59 O.S. Supp. 2017, Sections 1151.2 and 1151.9), which relate to the Roofing Contractor Registration Act; modifying definition; adding definitions; adding certain exemptions; providing an effective date; and declaring an emergency.

SUBJECT: Roofing Contractor Registration Act applicability

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1151.2, as amended by Section 1, Chapter 270, O.S.L. 2014 (59 O.S. Supp. 2017, Section 1151.2), is amended to read as follows:

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

1. "Advertise" means any written publication, dissemination, solicitation, contract, bid, promotional item, or circulation which is intended to directly or indirectly induce any person to contract for roofing construction services with the advertiser, including, but not limited to, business cards, telephone directory display

advertisements, vehicle signage, radio, television and electronic solicitations;

2. "Applicant" means the qualifying party, or if no qualifying party, any person applying under the Roofing Contractor Registration Act for a roofing contractor registration to be issued by the Construction Industries Board;

3. "Board" means the Construction Industries Board;

4. "Committee" means the Committee of Roofing Examiners;

5. "Homeowner" means one who owns and resides in, or who resides in, or who contracts for the purchase, construction, remodeling or repairing of a residence;

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

7. "Owner" means person who owns the property or is a lessee of the property;

8. "Person" means any natural person, firm, limited or general partnership, corporation, association, limited liability company, trust, association, other legal entity and any organization capable of conducting business, or any combination thereof acting as a unit, unless the intent to give a more limited meaning is disclosed clearly by the Roofing Contractor Registration Act;

9. "Prime contractor" means a general contractor, commercial contractor, or other contractor who contracts directly with the owner for construction trade work in multiple trade areas;

10. "Project manager" means one who manages construction projects consisting of work involving multiple trades;

11. "Public contract" means a contract with the State of Oklahoma, its political subdivisions, or any board, commission, or department thereof, or with any board of county commissioners, or

with any city council, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to award contracts for the construction or reconstruction of public works and includes subcontracts undertaken to perform works covered by the original contract or any part thereof;

12. "Qualifying party" means a natural person who is an officer or owner of the corporation, a member of the limited liability company, or a general partner of the limited liability partnership, and who is actively engaged in the work undertaken by the registrant for which a registration is required pursuant to the Roofing Contractor Registration Act who meets the experience and ability requirements for registration on behalf of the registrant;

13. "Registrar" means the Construction Industries Board or any person designated by the Board to administer the provisions of the Roofing Contractor Registration Act;

14. "Registration" means the process of applying for an initial or renewal registration which upon approval is exhibited by a registration number and card issued pursuant to the Roofing Contractor Registration Act;

15. "Registration number" means the roofing registration number issued by the registrar to the registrant's qualifying party;

16. "Registrant" means a holder of a registration issued pursuant to the Roofing Contractor Registration Act;

17. "Residence" means a single structure for residential occupancy or use which is a detached one- to four-family dwelling or a multiple single-family dwelling (townhouse) not more than three stories/floors above grade plane in height with a separate means of egress, and any appurtenances thereto, which is intended for use as a primary habitation and is in compliance with the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission;

18. "Roofing contractor" means any person, including a subcontractor and nonresident contractor, engaged in the business of commercial or residential roofing contractor work, or who himself or herself, or through another, attempts to or advertises, holds

himself or herself out as having, or purports to have, the capacity to undertake roofing contractor work, or offers to engage in or solicits roofing installation-related services, including construction, installation, renovation, remodeling, reroofing, repair, maintenance, alteration, and waterproofing, unless specifically exempted in the Roofing Contractor Registration Act. Roofing contractor shall not mean:

- a. a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material,
- b. a person working under the direct supervision of the roofing contractor who is hired either as an employee, day laborer, or contract laborer whose payment, received in any form, from the roofing contractor is subject to self-employment tax,
- c. a person working on his or her own property or that of an immediate relative and such person is not receiving any compensation, or
- d. a person acting as a handyman who is receiving compensation from the property owner and who is performing the roofing repair in conjunction with other repairs to the property and who does not perform more than two roofing jobs per year;

19. "Roofing contractor work" means the installation, fabrication or assembly of equipment or systems included in roofing systems as defined in the International Building Code and the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, and which codes are hereby adopted and incorporated by reference. Roofing construction work includes, but is not limited to, installation, renovation, remodeling, reroofing, reconstructing, repair, maintenance, improvement, alteration, and waterproofing, unless specifically exempted in the Roofing Contractor Registration Act.

- a. "Commercial roofing contractor work" means work done on commercial, industrial or public building roofing systems or structures as defined in the International

Building Code, as adopted by the Oklahoma Uniform Building Code Commission; except it does not mean buildings used for commercial purposes having equivalent or substantially the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence, and

- b. "Residential roofing contractor work" means work done on roofing systems as defined in the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or as defined as a "residence" herein; ~~except for including~~ buildings used for commercial purposes having ~~equivalent or substantially~~ asphalt shingles, tile shingles, synthetic shakes, wood shakes or other comparable materials applied to a sloped roof equal to the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence;

20. "Roofing Hearing Board" means the Roofing Hearing Board which shall consist of a designee of the Construction Industries Board, as chair, and the members of the Committee of Roofing Examiners;

21. "Subcontractor" means one who contracts with a prime contractor, general contractor, residential contractor, project manager, property manager, another subcontractor, or another entity for roofing contractor work;

22. "Variance" means the use of an alternative material or method of construction from that prescribed in the International Building Code or the International Residential Code or other approved documents by the Oklahoma Uniform Building Code Commission for use at a particular location or project specified in the variance application; ~~and~~

23. "Variance and Appeals Board" means the Oklahoma State Roofing Installation Code Variance and Appeals Board;

24. "Labor-only crews" means a crew that is to perform the installation of asphalt shingles, tile shingles, synthetic shakes, wood shakes or other comparable materials to a sloped roof and to complete roofing work; and

25. "Prefabricated- or pre-engineered-metal-building erector" means the labor necessary to construct the components of a prefabricated- or pre-engineered-metal-building package, known as PEMB, as defined by the Construction Science Institute and Construction Specifications Institute in Division 13, Special Construction: Metal Building Systems.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 1151.9, as amended by Section 7, Chapter 270, O.S.L. 2014 (59 O.S. Supp. 2017, Section 1151.9), is amended to read as follows:

Section 1151.9. A. Any administrative or governing body with authority to enter into public contracts shall require individual roofing contractor registration for purposes of such persons submitting or entering into any bid or contract involving roofing contractor work.

B. The Roofing Contractor Registration Act does not apply to:

1. An actual owner of residential or farm property who physically performs, or has family member, employee or employees who perform with or without remuneration, roofing services including, construction, installation, renovation, repair, maintenance, alteration, waterproofing, or removal of materials or structures on property owned by such person;

2. Any authorized employee, representative or representatives of the United States Government, the State of Oklahoma, or any county, municipality, or other political subdivision of this state;

3. Any person who furnishes any fabricated or finished product, material, or article of merchandise which is not incorporated into or attached to real property by such person so as to become affixed thereto;

4. Any person including churches or other charitable entities that provide roof repairs or replacements at no charge using volunteer labor;

5. Any employee of a registrant who does not hold himself or herself out for hire, advertise, or engage in contracting, except as an employee of a registrant;

6. Licensed engineers, licensed architects, licensed HVAC and any other person licensed by the jurisdiction, operating under the purview and within the scope of their respective license;

7. A person who only furnishes roofing materials, roofing supplies or equipment and does not, nor do the person's employees, install or fabricate them into or consume them in the performance of the work of the roofing contractor;

8. Prime contractors, general contractors, property managers and project managers who bid on construction trade work in areas additional to roofing contractor work, and subcontract the roofing contractor work as long as they subcontract the roofing work to a currently registered roofing contractor who is in good standing; if the bid is solely for roofing contractor work, then a registration is required;

9. Owners of commercial properties including residential rental properties consisting of four dwelling units or less, when acting as their own roofing contractor and providing all material supervision themselves, lessees of residential properties with the consent of the owner, who, whether themselves or with their own employees, perform roofing construction in or upon the properties, all installing roofing materials according to the International Building Code, as adopted by the Oklahoma Uniform Building Code Commission, or the manufacturer's installation instructions; ~~or~~

10. Owners of property when acting as their own roofing contractor, providing all material supervision themselves, and installing roofing materials according to the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or the manufacturer's installation instructions when building or improving a single-family dwelling residence on such property for the occupancy of such owners and not intended for sale

or rent. In any action brought under the Roofing Contractor Registration Act, proof of the sale or offering for sale of such structure or the renting or offering to rent of such structure by the owners of the property within one (1) year after substantial completion of the structure when the structure can be occupied and used as intended but punch list items may remain, is presumptive evidence that the construction was undertaken with the intent of sale or rent; or

11. Metal building erectors who install prefabricated- or pre-engineered-metal-building packages, known as PEMBs, as defined by the Construction Science Institute and Construction Specifications Institute in Division 13, Special Construction: Metal Building Systems.

C. Labor-only crews performing the installation of asphalt shingles, tile shingles, synthetic shakes or wood shakes to a sloped roof must be registered but are not required to have a commercial endorsement.

SECTION 3. This act shall become effective July 1, 2018.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of April, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 18th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____