Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
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As Engrossed: S4/22/21

A Bill

HOUSE BILL 1800

By: Representative Lowery

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING CONTRACTORS; TO REQUIRE REGISTRATION OF ROOFING CONTRACTORS; TO AUTHORIZE THE RESIDENTIAL CONTRACTORS COMMITTEE TO ISSUE ROOFING CONTRACTOR REGISTRATION CERTIFICATES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING CONTRACTORS; TO REQUIRE REGISTRATION OF ROOFING CONTRACTORS; AND TO AUTHORIZE THE RESIDENTIAL CONTRACTORS COMMITTEE TO ISSUE ROOFING CONTRACTOR REGISTRATION CERTIFICATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-25-513, concerning licensing requirements exemptions of the Residential Contractors Committee, is amended to add an additional subdivision to read as follows:

(6) A person or entity performing work as a roofing contractor as defined under § 17-25-601 et seq.

SECTION 2. Arkansas Code § 17-25-515 is amended to read as follows:

17-25-515. Actions to enforce contracts in violation of this subchapter.

A contractor ~~found guilty of a~~ who performs work in violation of this subchapter shall not bring an action:

(1) In law or equity to enforce any provision of a contract entered into in violation of this subchapter; or

(2) For quantum meruit.

SECTION 3. Arkansas Code Title 17, Chapter 25, is amended to add an additional subchapter to read as follows:

Subchapter 6 — Roofing Contractor Registration Certificate

17-25-601. Definitions.

As used in this subchapter:

(1) "Home improvement contractor" means a home improvement contractor licensed under § 17-25-501 et seq.;

(2) "Nonresident roofing contractor" means a roofing contractor that:

(A) Has not established and maintained a place of business as a roofing contractor in this state within the preceding year;

(B) Claims residency in another state; or

(C) Has not submitted an income tax return as a resident of this state within the preceding year;

(3) "Residential building contractor" means a residential building contractor licensed under § 17-25-501 et seq.; and

(4)(A) "Roofing contractor" means a person, including a subcontractor or nonresident roofing contractor, that in the ordinary course of business:

(i) Engages in the business of residential roofing services for a fee; or

(ii) Offers to engage in or solicits residential roofing-related services, including construction, installation, renovation, repair, maintenance, alteration, and waterproofing.

(B) "Roofing contractor" does not include a person that is:

(i) Engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material;

(ii) Working under the direct supervision of a roofing contractor and that is hired by the roofing contractor as an employee or day laborer; or

(iii) Exempt from the requirements of this subchapter.

17-25-602. Authority.

The Residential Contractors Committee may:

(1) Issue, modify, suspend, and revoke a roofing contractor registration certificate issued by the committee;

(2) Establish qualifications for roofing contractor registration certificates issued by the committee;

(3) Enforce this subchapter and the rules of the committee;

(4) Issue rules necessary for the implementation of this subchapter;

(5) Levy civil penalties under this subchapter;

(6) Issue orders of abatement for violations of this subchapter in the same manner and to the same extent as authorized for the Contractors Licensing Board under § 17-25-103; and

(7) Seek a civil remedy available to the board.

17-25-603. Roofing contractor registration certificate from committee required.

(a) A person shall not act as a roofing contractor after July 1, 2021, unless a person is:

(1) Granted a roofing contractor registration certificate by the Residential Contractors Committee; or

(2) Exempt from certification under this subchapter.

(b) A person that fails to procure a roofing contractor registration certificate as required under this subchapter is upon conviction guilty of a Class A misdemeanor with each day in violation of the requirement to constitute a separate offense.

17-25-604. Application for roofing contractor registration certificate.

(a) An application for a roofing contractor registration certificate shall be made on a form prescribed by the Residential Contractors Committee.

(b) To obtain a roofing contractor registration certificate, an applicant shall under oath include the following information on the

application:

(1) A statement that the applicant requesting the roofing contractor registration certificate is at least eighteen (18) years of age;

(2) The applicant's:

(A) Name;

(B) Physical address; and

(C) Telephone number;

(3) The name of the applicant's business, including any fictitious business names;

(4) The address of the applicant's business;

(5) The name of all other persons authorized to act for the applicant's business and the registered agent of the applicant's business; and

(6) A statement that the applicant:

(A) Will comply with all federal, state, and local laws and rules;

(B) Is or is not registered, certified, or licensed as a roofing contractor in another state; and

(C) Has or has not been the subject of a disciplinary action in this state or another state as a roofing contractor.

(c) If the applicant for a roofing contractor registration certificate is a nonresident roofing contractor, the applicant shall designate a registered agent of service in the State of Arkansas.

(d) The application for a roofing contractor registration certificate shall have the following information attached:

(1) A *surety* bond in the minimum amount of fifteen thousand dollars ($15,000);

(2) Proof of workers' compensation coverage as required under § 11-9-401 et seq.; and

(3) Any other information required by the committee.

17-25-605. Applicant qualifications.

(a) The Residential Contractors Committee may limit a roofing contractor registration certificate issued by the committee to the character of work that the applicant is qualified to perform.

(b) In addition to the offenses listed in § 17-3-102, the committee

may consider the following convictions when determining an applicant's fitness for a roofing contractor registration certificate under this subchapter:

(1) Conviction of a crime with an element of dishonesty or fraud under the laws of this state, another state, or the United States;

(2) Conviction of a voyeurism offense as prohibited in §§ 5-16-101 and 5-16-102;

(3) Conviction under the Arkansas Hot Check Law, § 5-37-301 et seq.; and

(4)(A) Conviction of a crime or act that is substantially related to the qualifications, functions, or duties of a roofing contractor.

(B) A crime or act is substantially related to the qualifications, functions, or duties of a roofing contractor if, to a substantial degree, the crime or act indicates a present or potential unfitness of a person applying for or holding a roofing contractor registration certificate to perform the functions authorized by the roofing contractor registration certificate.

17-25-606. Name of roofing contractor holding roofing contractor registration certificate.

(a) A roofing contractor that obtains a roofing contractor registration certificate under this subchapter may act as a roofing contractor only in the name under which the Residential Contractors Committee granted the roofing contractor registration certificate.

(b) A roofing contractor shall submit a written update to the committee if the information submitted with the application for a roofing contractor registration certificate under this subchapter changes.

17-25-607. Hearings regarding violations.

(a) The Residential Contractors Committee may conduct hearings regarding alleged violations of this subchapter or rules promulgated under this subchapter, and the hearings shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The committee shall within a reasonable time make findings and determinations as a result of the hearings.

(c) A roofing contractor that, after notice and hearing, is found to

have committed one (1) or more of the following actions shall pay to the Contractors Licensing Board a civil penalty of not less than one hundred dollars ($100) nor more than four hundred dollars ($400) for each day that the violation occurred:

(1) Acting as a roofing contractor without having a valid roofing contractor registration certificate in violation of this subchapter;

(2) Using a roofing contractor in violation of this subchapter;

(3) Presenting or filing a roofing contractor registration certificate of another roofing contractor;

(4) Giving false or forged evidence to the board in order to obtain a roofing contractor registration certificate;

(5) Using an expired or revoked roofing contractor registration certificate;

(6) Giving false or fraudulent evidence of a roofing contractor's roofing contractor registration certificate to another person; or

(7) Committing other violations under this subchapter.

(c) The committee may revoke the roofing contractor registration certificate of a roofing contractor that is found guilty of:

(1) Fraud or deceit in obtaining a roofing contractor registration certificate;

(2) Aiding or abetting a roofing contractor or other person to violate this subchapter;

(3) Gross negligence, incompetence, or misconduct in the roofing contractor's business;

(4) Abandoning a roofing contract without legal grounds after a consideration in payment has been tendered;

(5) Mishandling funds or property entrusted to the roofing contractor;

(6) Engaging in fraudulent or deceptive acts or practices;

(7) Misrepresenting products, services, or qualifications;

(8) Engaging in roofing services without obtaining a proper permit as may be required by a local authority; or

(9) Damaging or injuring a person or property while performing roofing services under a valid roofing contractor registration certificate for which the roofing contractor's liability insurance, worker's compensation

coverage, or other method of remuneration for injuries does not make the injured party whole.

(d)(1) When abuse, neglect, or exploitation of an endangered person or an impaired person by a roofing contractor is found by the committee to have occurred, the committee may:

(A) State in writing that due to imminent physical or other harm to the endangered person or impaired person, the situation merits the emergency suspension of the roofing contractor registration certificate of the roofing contractor; and

(B) Proceed with the suspension of the roofing contractor registration certificate without a hearing or upon an abbreviated hearing that the committee finds practicable to suspend the roofing contractor registration certificate.

(2) An emergency suspension under this subsection shall be effective immediately, unless otherwise stated in the written documentation by the committee.

(3) An emergency suspension under this subsection may be effective for a period of more than thirty (30) days and the emergency suspension shall not be renewable.

(4) When an emergency suspension is ordered under this subsection, a formal suspension or revocation proceeding shall be promptly instituted and acted upon in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

17-25-608. Appeal from committee decision.

(a) A person aggrieved by an action or decision of the Residential Contractors Committee may appeal to the Contractors Licensing Board within ten (10) calendar days after the action or decision under procedures prescribed by the board.

(b) A person aggrieved shall be granted an opportunity to address the board regarding the committee's actions, and the final decision of the board shall be binding upon the committee.

17-25-609. Expiration of certification — Fees.

(a) A roofing contractor registration certificate issued by the Residential Contractors Committee shall expire one (1) year after the date of

issuance unless otherwise provided by the committee.

(b) The committee may charge reasonable delinquency fees and may charge a fee not to exceed one hundred dollars ($100) for a new roofing contractor registration certificate or the renewal of a roofing contractor registration certificate.

(c) All fees and other moneys collected by the committee shall be disposed of as provided by § 17-25-205 and shall be used by the committee to implement this subchapter.

17-25-610. Exemptions.

The following are exempt from the registration requirements of this subchapter:

(1) A person that acts as a roofing contractor in the construction of his or her residence unless he or she builds more than one (1) residence during a calendar year;

(2) The owner of a single-family residence acting as his or her own roofing contractor on his or her own property;

(3) A person licensed as a contractor by a licensing agency, board, or commission of the State of Arkansas if the person is performing work within the scope of the license held by the person;

(4) A contractor licensed by the Contractors Licensing Board if the contractor holds a classification that authorizes the contractor to perform roofing as defined under § 17-25-601; and

(5) A home improvement contractor or residential building contractor if the home improvement contractor or residential building contractor:

(A) Is in compliance with all requirements to do business in the State of Arkansas, including requirements of a municipality or county applicable to the location in which the home improvement contractor or residential building contractor intends to do business that involves roofing services;

(B) Engages in roofing services in addition to construction, installation, renovation, repair, maintenance, alteration, or waterproofing services on the project and the roofing services do not constitute more than fifty percent (50%) of the total project cost; and

(C) Does not authorize agents, employees, or

representatives of the home improvement contractor or the residential building contractor to engage in door-to-door sales of roofing services.

17-25-611. Actions to enforce contracts in violation of subchapter.

A roofing contractor who performs work or enters into a contract in violation of this subchapter shall not bring an action:

(1) In law to enforce a provision of a contract entered into with a consumer in violation of this subchapter; or

(2) For quantum meruit.

SECTION 4. EFFECTIVE DATE.

This act is effective on and after January 1, 2022.

/s/Lowery