

AN ACT relating to the certification of roofers and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act:

(1) "Board" means the Kentucky Board of Roofing Contractors;

(2) "Roofing contractor" means a person engaged in the business of contracting or offering to contract to do roofing on residential, commercial, and industrial buildings of any scale; and

(3) "Roofing" means to construct, reconstruct, repair, maintain, and install products to the surface of roofs to seal, waterproof, and weatherproof buildings. "Roofing" shall not be construed to include the installation of photovoltaic cells, wind turbines, or other electrical devices powered by the sun, wind, or other natural source.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 12 of this Act shall apply to persons who contract or offer to contract to construct or repair roofs for compensation on any building subject to the requirements of the Uniform State Building Code as required in KRS 198B.050, but shall not apply to:

(a) A building owner personally constructing or repairing a roof upon the building which he or she owns; and

(b) A farm owner or farm tenant who personally does construction, maintenance, or repair work on a roof on a home, barn, or other outbuilding he or she owns or rents.

(2) Any person not exempted by subsection (1) of this section who engages in roofing

work for compensation without being certified in accordance with Section 5 of this Act shall be guilty of a violation and may be fined by the department as follows:

(a) A fine of up to two thousand five hundred dollars (\$2,500) for the first offense;

(b) A fine of up to five thousand dollars (\$5,000) for the second offense; and

(c) A fine of up to ten thousand dollars (\$10,000) for the third and each subsequent offense.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Roofing Contractors is created within the Department of Housing, Buildings and Construction.

(2) The board shall be composed of five (5) members, one (1) of whom shall be the commissioner of the Department of Housing, Buildings and Construction, or his or her designee. The commissioner shall act as the chair of the board. The remaining four (4) members shall be appointed by the Governor as follows:

(a) 1. Two (2) members shall be appointed from a list of names submitted by the Kentucky Roofing Contractors Association, one (1) for an initial term of one (1) year and one (1) for an initial term of two (2) years.

2. After the initial appointments, the term for all members appointed by the Governor shall be for two (2) years;

(b) One (1) member shall represent the public at large and shall have no financial or professional interest in the roofing profession or in supplying material to the roofing profession; and

(c) One (1) member shall be a representative of the insurance industry. This person shall be selected from a list of three (3) names submitted to the Governor by the Independent Insurance Agents of Kentucky.

- (3) Each member of the board, except the commissioner or his or her designee, shall be compensated for his or her time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars (\$50) per day. Board members shall also be compensated for expenses incurred in the conduct of board business.
- (4) A majority of the members of the board shall constitute a quorum. Official business of the board may be conducted only if a quorum is present.
- (5) The chair shall establish the date, time, and place for each meeting.
- (6) The board shall meet no less than quarterly and may meet at other times upon the call of the chair or the written request of a majority of the members of the board.
- (7) A member shall not serve on the board for more than six (6) consecutive years.
- (8) Members may be removed from the board by the Governor for unethical conduct, neglect of duty, incompetence, or for failure to attend three (3) or more consecutive meetings of the board. A dismissed member's remaining term shall be completed by the replacement member appointed by the Governor.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department, with assistance from the board, shall:

- (1) Promulgate administrative regulations necessary to carry out Sections 1 to 12 of this Act;
- (2) Establish application deadlines for:
- (a) Initial certification; and
- (b) Certification renewal;
- (3) Approve, deny, suspend, or revoke a certificate to practice as a roofing contractor;
- (4) Conduct hearings for certificate suspension or revocation, the imposition of a fine, or appeals of other decisions of the department under KRS Chapter 13B;

and

(5) Conduct or cause to be conducted background investigations of applicants, including but not limited to checks for state, federal, and international criminal histories, civil or administrative records, and any other information deemed necessary to determine whether the applicant has past felony convictions for:

(a) Fraud;

(b) Burglary; or

(c) Theft by deception.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The department shall issue a certificate to a person as a roofing contractor who:

(a) Provides proof of current liability insurance coverage in the amount of at least five hundred thousand dollars (\$500,000) underwritten by an insurance carrier licensed and approved by the Kentucky Department of Insurance;

(b) Submits proof of a licensing and permit bond posted in the amount of ten thousand dollars (\$10,000); and

(c) Has paid a certification fee in an amount established by the department through the promulgation of an administrative regulation, not to exceed:

1. Two hundred fifty dollars (\$250) for initial licensure; or

2. Two hundred dollars (\$200) for certificate renewal;

(d) Submits proof of current workers' compensation insurance coverage or proof of exemption; and

(e) Meets other requirements as promulgated by the department through administrative regulation.

(2) A certified roofing contractor shall have and maintain:

(a) A definite and active place of business in this state, unless the certified

roofer is a nonresident and maintains a definite and active place of business in the state where the certified roofer resides;

(b) A current e-mail address; and

(c) A current telephone number.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

A certificate issued by the department pursuant to Section 5 of this Act may be renewed annually, on or before the last day of the certificant's birth month, upon payment of a renewal fee and submission of proof of compliance with the applicable requirements of Section 5 of this Act. Failure to renew shall cause the certificate to expire.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The department may deny, refuse to renew, revoke, or suspend a certificate issued under Section 5 of this Act for any of the following reasons:

(a) Untruthful, inaccurate, or incomplete reporting of any of the certification requirements in Section 5 of this Act;

(b) Failure to satisfy any requirement of certification in Section 5 of this Act;

(c) Past criminal felony conviction related to:

1. Fraud;

2. Burglary; or

3. Theft by deception;

(d) Violating, aiding, abetting or conspiring with an uncertified person to evade or violate any of the provisions of Section 2, 9, 10, 11, or 12 of this Act; or

(e) Failure to comply with a stop-work order issued pursuant to Section 12 of this Act.

(2) An applicant or certificant aggrieved by an action of the department under this section may request an administrative hearing in accordance with KRS Chapter

13B.

(3) Any certificant who is aggrieved by a final order of the department resulting in the denial, suspension, refusal to renew, or revocation of his or her certificate may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) (a) All fees, fines, and other moneys received by the department under Sections 1 to 12 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the administration and enforcement of the roofing program established by Sections 1 to 12 of this Act.

(b) The moneys in the fund are hereby appropriated for the purposes set forth in Sections 1 to 12 of this Act.

(c) The department shall administer the fund.

(2) Notwithstanding KRS 45.229, no part of the revolving fund shall lapse but shall be carried forward to the next fiscal year.

(3) Any interest earnings of the fund shall become part of the revolving fund and shall not lapse.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) A certified roofing contractor shall:

(a) Continue to maintain in effect all insurance coverage required for initial certification;

(b) Affix the roofing contractor certificate number and the certificant's name, as it appears on the certificate, to each:

1. Vehicle used by the certificant in the conduct of the roofing business, where letters and numbers used shall be:

a. In a color contrasting to the color of the vehicle; and

- b. At least two (2) inches high; and
 - 2. Contract or bid document the certificant offers to a customer; and
 - (c) Report any change in information supplied to the department on an application for certification or certificate renewal within thirty (30) days of the date of change.
 - (2) A fine of up to two hundred fifty dollars (\$250) may be imposed by the department on a roofing contractor for each violation of the requirements of this section.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) The department shall establish, in consultation with the board, an on-line consumer protection surcharge system.
- (2) A surcharge shall be paid before roofing work begins on any job except for:
 - (a) New construction;
 - (b) Jobs for which the contracted price is less than one thousand five hundred dollars (\$1,500);
 - (c) Emergency repair services, consisting of roof tarps, spot repairs, and any other repair service that constitutes a temporary rather than permanent means necessary to prevent further damage to the premises; or
 - (d) Any other permitted construction projects.

A surcharge for all other emergency repair services shall be paid no later than the business day following the day on which the repair is begun.
- (3) The cost of the surcharge shall be determined and promulgated in administrative regulation by the department, but shall not be more than twenty-five dollars (\$25).
- (4) Information submitted when paying for a consumer protection surcharge shall include:

- (a) The roofing contractor's name, business address, and phone number;
 - (b) The roofing contractor's certificate number;
 - (c) The address of the building to be roofed or repaired under the surcharge;
 - (d) The certificant's federal tax ID number or Social Security number; and
 - (e) Any other information the department may require through the promulgation of an administrative regulation.
- (5) The department shall make provisions for the payment of consumer protection surcharges electronically by Internet access, as well as other methods approved by the department through the promulgation of an administrative regulation.
- (6) A fine of up to two hundred fifty dollars (\$250) shall be imposed by the department on a certified roofing contractor or other person who begins work on a roofing job without paying the consumer protection surcharge required for that job under subsection (2) of this section.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

- (1) For the purposes of this section, "local government" means a city, county, consolidated local government, charter county government, unified local government, or urban-county government.
- (2) Nothing in Sections 1 to 12 of this Act shall prohibit a local government that has implemented a permitting and inspection program for roofing contractors as of January 1, 2015, from continuing to administer the permitting and inspection program within its jurisdiction, only if the local government demonstrates to the department that the requirements of the local permitting and inspection program, as established by local ordinance, are at least as stringent as the requirements of Sections 9, 10, and 12 of this Act;
- (3) A local government that has implemented a permitting and inspection program for roofing contractors as of January 1, 2015, with requirements less stringent

than the requirements of Sections 9, 10, and 12 of this Act shall be permitted to continue its program only if it brings its requirements into conformity with subsection (2) of this section by no later than January 1, 2016.

(4) A local government implementing a permitting and inspection program after January 1, 2015, in accordance with this section may, by ordinance, establish and enforce local fines equivalent to those authorized to be imposed by the department pursuant to Sections 9, 10, and 12 of this Act.

(5) A roofing contractor operating within the territory of a local government that has established a local permitting and inspection program in accordance with this section shall be exempt from Section 10 of this Act and shall conform to the local permitting and inspection program while operating as a roofing contractor within the jurisdiction of that local government.

(6) A roofing contractor whose business address is located within the territory of a local government with a local permitting and inspection program established in accordance with this section shall comply with Section 10 of this Act when engaged in roofing contracting in areas of the state that are not subject to a local permitting and inspection program established in accordance with this section.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Any inspector employed and authorized by the department shall have the authority to review roofing contractor certification and consumer protection surcharge payments on job sites where roofing work is being conducted.

(2) Any local building inspector certified by the department shall have the authority to review roofing contractor certification and consumer protection surcharge payments on job sites where roofing work is being conducted and over which the local government employing the inspector has jurisdiction pursuant to KRS 198B.060.

- (3) Any inspector exercising the authority set forth in subsection (1) or (2) of this section and any local government implementing a permitting and inspection program in accordance with Section 11 of this Act, shall have the authority to issue a stop-work order for any roofing work:
- (a) Undertaken by an uncertified roofing contractor; or
- (b) Undertaken without a consumer protection surcharge payment where a payment is required under Section 10 of this Act.
- (4) A stop-work order issued under subsection (3) of this section may be delayed in order to allow work to continue long enough to provide adequate protection on areas of a roof that have already been stripped of shingles or other protective covering.
- (5) The department, or any local government acting under the authority of subsection (2) or (3) of this section, may impose a fine of up to one thousand dollars (\$1,000) on any person who fails to adhere to a stop-work order issued under this section. However, any such local government shall first establish this fine by ordinance.
- (6) (a) The department, or any local government acting under the authority of subsection (2) or (3) of this section, may petition the courts to enforce the penalties authorized by this section and Section 9 of this Act.
- (b) When required to petition the courts to enforce a penalty, the costs of the action and reasonable attorneys' fees may be added to the amount of the penalty.
- (7) A person aggrieved by a stop-work order or fine issued by the department pursuant to this section may request an administrative hearing with the department in accordance with KRS Chapter 13B if the person delivers the request in writing to the department with ten (10) days of the date of the department's orders or notice.

(8) Any person aggrieved by a final order of the department resulting in a fine may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 13. This Act takes effect January 1, 2016.