

SESSION OF 2013

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2024**

As Amended by Senate Committee on
Commerce

Brief*

Sub. for HB 2024, as amended, would enact the Kansas Roofing Contractor Registration Act, and it would be made part of the Kansas Consumer Protection Act. The Attorney General would administer the bill.

In order to obtain a registration certificate, an applicant would need to be at least 18 years old and provide the Attorney General with the following information:

- A statement of experience and qualification;
- The name, address, and phone number of the applicant, the applicant's business (if applicable), and other persons who will be authorized to act as agents for the business;
- Workers Compensation coverage, self-insurance, or an affidavit of exemption from Worker's Compensation;
- The nature of a felony conviction in any state. Conviction of an offense would not disqualify a person for registration;
- Any other information required by the Attorney General; and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Agreement to the following:
 - Comply with the bill and all relevant federal and state laws and local ordinances;
 - Provide information pertaining to similar registration in other states, including any disciplinary action; and
 - Appoint the Secretary of State to accept service of process, if the roofing contractor is a nonresident.

The Attorney General could refuse to register an applicant if:

- The application contains false, misleading, or incomplete information;
- The applicant fails or refuses to provide requested information;
- The applicant fails or refuses to pay required fees;
- The applicant is ineligible to register due to a suspended or revoked registration in Kansas or another state; or
- The applicant has failed to provide a current tax clearance or letter from the Department of Revenue.

The Attorney General would have 60 days from the application date to either issue or deny a registration certificate. During that time, the Attorney General could conduct a criminal history or background check on an applicant. If an application was denied, the applicant would be given notice of the denial and would be given ten days to cure any application defect. An adverse decision would be appealed pursuant to the Administrative Procedures Act, or the applicant could reapply after 90 days. Application fees would not be refundable.

The Attorney General could classify a registered roofing contractor as being not in good standing if the person fails to:

- Maintain liability insurance;
- Maintain Workers Compensation coverage, self-insurance, or an affidavit of exemption from Worker's Compensation;
- Maintain an active corporation or registration status with the Secretary of State;
- Maintain registration required by this bill or by another state, if a nonresident;
- Notify the Attorney General of any violation or omission committed under the bill;
- Pay taxes due in the state; or
- File an annual renewal application by the June 30 deadline.

A roofing contractor receiving notice of not being in good standing would have 30 days to correct the defect. During the 30 day period, the roofing contractor could complete roofing projects that were started, but the contractor could not accept new work. If the person did not correct the defect, the registration would be revoked. The Attorney General's decisions could be appealed pursuant to the Administrative Procedures Act.

In the ordinary course of business, a registered roofing contractor would be required to:

- Maintain registration in good standing;
- Submit the registration certificate number to the applicable governmental entity when applying for any needed permit;

- Retain the certificate and not share it with any other person or business. However, a business firm could use a single registration for its employees so long as the firm's application contained sufficient information about each agent for the business;
- Display the registration certificate number on commercial vehicles; advertisements, stationary, and contracts;
- Notify the Attorney General of any change to the names or addresses of business entities or adjudications pertaining to violations of the bill;
- Comply with all state laws and local ordinances;
- Pay all taxes in the state; and
- Refrain from the following actions:
 - Abandon a roofing contract without legal ground after a deposit of money or other consideration had been made;
 - Divert any entrusted funds or property;
 - Engage in fraudulent or deceptive acts;
 - Make false or misleading statements;
 - Violate a court order or judgment;
 - Engage in any work without a valid registration or proper construction permit;
 - Fail to comply with the state's tax laws;
 - Damage or injure any person or property while working; or
 - Fail to comply with the bill and rules and regulations promulgated pursuant to it.

The Attorney General would be authorized to promulgate rules and regulations to implement the bill's

provisions. In order for consumers and government officials to verify registration, the Attorney General would maintain a publicly accessible database on roofing contractors. The database could include information about criminal convictions. Disclosures of information through the database would not be deemed to be an endorsement of any roofing contractor.

The Attorney General would set an annual application fee not to exceed \$500, and the fee could be prorated. Registration would be valid on a fiscal year basis. The Attorney General could charge a late fee not exceeding \$300 if a person fails to renew by July 31 of each year. A registration not renewed would be revoked. In order to renew a revoked license, a roofing contractor would pay the cost of the annual fee plus \$500. To renew a suspended license, a roofing contractor would pay twice the cost of the annual fee. Revenue from the fee would be deposited in the newly created, interest-bearing Roofing Contractor Registration Fund.

An aggrieved person could file a complaint against a roofing contractor with the Attorney General who would have the authority to investigate and enforce the bill's provisions. A violation of the bill would be covered by the Kansas Consumer Protection Act.

The bill would not apply to:

- Owners of commercial, residential, or farm property, or the owners' employees, who performed their own roofing services;
- Government employees or their representatives;
- Material suppliers;
- Home inspectors registered pursuant to KSA 58-4501 *et seq.*;

- Employees and persons in the manufactured home and modular home industries, while in the performance of their work; or
- Any person who provides roofing services for projects that do not cost more than \$1,000.

Background

Proponents before the Senate Committee included representatives from the Attorney General's Office, insurance companies and agents, private roofing companies, the Kansas Roofers Association, the Kansas Chapter of the American Association of Retired Persons (AARP), and the Kansas AFL-CIO. Persons in the roofing industry requested to be registered in order to improve the profession's reputation with minimal administrative burden. Proponents contend the bill would address the problems caused by unscrupulous roofing contractors, especially nonresident contractors, who target the public after a natural disaster.

There was no opponent testimony.

In addition to technical amendments, the House Committee on Commerce, Labor, and Economic Development amended the bill to:

- Delete the definition for "public contract";
- Clarify that a registered roofing contractor may engage in the roofing business and does not receive an entitlement to conduct business;
- Lengthen the period of time, from 30 days to 60 days, for the Attorney General to process applications;

- Allow the Attorney General to cooperate and exchange information with political subdivisions of other states;
- Classify a violation of the bill to be either a deceptive or unconscionable act; and
- Exempt persons with the necessary technical building knowledge from having to register under the bill.

The Senate Committee on Commerce amended the bill to:

- Revise the definition for “roofing contractor”, specifying the bill would apply to persons who, in the ordinary course of business, engage in roofing services;
- Delete the exemption from registration for persons who have the necessary technical building knowledge to properly plan and supervise the construction, renovation, or remodeling to any building not exceeding three stories in height; and
- Exempt commercial property owners who perform their own roofing services from having to register under the bill.

According to the the fiscal note prepared by the Division of the Budget, the Attorney General would require an additional 2.0 FTE positions. Assuming approximately 700 roofing businesses in Kansas and an unknown number of nonresident roofers, the estimated start-up costs would be \$150,000, and the annual cost for the wages and benefits for the new employees would be \$116,000.