

FIRST REGULAR SESSION

HOUSE BILL NO. 425

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORNEJO.

0094H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 324.001 and 621.045, RSMo, and to enact in lieu thereof thirteen 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Section A. Sections 324.001 and 621.045, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 324.001, 341.300, 341.305, 341.310, 341.315, 341.320, 341.325, 341.330, 341.333, 341.335, 341.340, 341.345, and 621.045, to read as follows:

- 324.001. 1. For the purposes of this section, the following terms mean:
- (1) "Department", the department of insurance, financial institutions and professional registration;
 - (2) "Director", the director of the division of professional registration; and
 - (3) "Division", the division of professional registration.
2. There is hereby established a "Division of Professional Registration" assigned to the department of insurance, financial institutions and professional registration as a type III transfer, headed by a director appointed by the governor with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel.
3. The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 licenses or certificates if such change in renewal date would occur prior to the date on which the
17 renewal date in effect at the time such new renewal date is specified next occurs. Each board or
18 commission shall by rule or regulation establish licensing **or registration** periods of one, two,
19 or three years. Registration fees set by a board or commission shall be effective for the entire
20 licensing period involved, and shall not be increased during any current licensing period.
21 Persons who are required to pay their first registration fees shall be allowed to pay the pro rata
22 share of such fees for the remainder of the period remaining at the time the fees are paid. Each
23 board or commission shall provide the necessary forms for initial registration, and thereafter the
24 director may prescribe standard forms for renewal of licenses and certificates. Each board or
25 commission shall by rule and regulation require each applicant to provide the information which
26 is required to keep the board's records current. Each board or commission shall have the
27 authority to collect and analyze information required to support workforce planning and policy
28 development. Such information shall not be publicly disclosed so as to identify a specific health
29 care provider, as defined in section 376.1350. Each board or commission shall issue the original
30 license or certificate.

31 4. The division shall provide clerical and other staff services relating to the issuance and
32 renewal of licenses **or certificates of registration** for all the professional licensing and
33 regulating boards and commissions assigned to the division. The division shall perform the
34 financial management and clerical functions as they each relate to issuance and renewal of
35 licenses and certificates. "Issuance and renewal of licenses and certificates" means the
36 ministerial function of preparing and delivering licenses or certificates, and obtaining material
37 and information for the board or commission in connection with the renewal thereof. It does not
38 include any discretionary authority with regard to the original review of an applicant's
39 qualifications for licensure or certification, or the subsequent review of licensee's or certificate
40 holder's qualifications, or any disciplinary action contemplated against the licensee or certificate
41 holder. The division may develop and implement microfilming systems and automated or
42 manual management information systems.

43 5. The director of the division shall maintain a system of accounting and budgeting, in
44 cooperation with the director of the department, the office of administration, and the state
45 auditor's office, to ensure proper charges are made to the various boards for services rendered
46 to them. The general assembly shall appropriate to the division and other state agencies from
47 each board's funds moneys sufficient to reimburse the division and other state agencies for all
48 services rendered and all facilities and supplies furnished to that board.

49 6. For accounting purposes, the appropriation to the division and to the office of
50 administration for the payment of rent for quarters provided for the division shall be made from
51 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for

52 the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited
53 into it from each board's fund. Each board shall contribute a prorated amount necessary to fund
54 the division for services rendered and rent based upon the system of accounting and budgeting
55 established by the director of the division as provided in subsection 5 of this section. Transfers
56 of funds to the professional registration fees fund shall be made by each board on July first of
57 each year; provided, however, that the director of the division may establish an alternative date
58 or dates of transfers at the request of any board. Such transfers shall be made until they equal
59 the prorated amount for services rendered and rent by the division. The provisions of section
60 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed
61 to the credit of general revenue.

62 7. The director of the division shall be responsible for collecting and accounting for all
63 moneys received by the division or its component agencies. Any money received by a board or
64 commission shall be promptly given, identified by type and source, to the director. The director
65 shall keep a record by board and state accounting system classification of the amount of revenue
66 the director receives. The director shall promptly transmit all receipts to the department of
67 revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall
68 provide each board with all relevant financial information in a timely fashion. Each board shall
69 cooperate with the director by providing necessary information.

70 8. All educational transcripts, test scores, complaints, investigatory reports, and
71 information pertaining to any person who is an applicant or licensee of any agency assigned to
72 the division of professional registration by statute or by the department are confidential and may
73 not be disclosed to the public or any member of the public, except with the written consent of
74 the person whose records are involved. The agency which possesses the records or information
75 shall disclose the records or information if the person whose records or information is involved
76 has consented to the disclosure. Each agency is entitled to the attorney-client privilege and
77 work-product privilege to the same extent as any other person. Provided, however, that any
78 board may disclose confidential information without the consent of the person involved in the
79 course of voluntary interstate exchange of information, or in the course of any litigation
80 concerning that person, or pursuant to a lawful request, or to other administrative or law
81 enforcement agencies acting within the scope of their statutory authority. Information regarding
82 identity, including names and addresses, registration, and currency of the license of the persons
83 possessing licenses to engage in a professional occupation and the names and addresses of
84 applicants for such licenses is not confidential information.

85 9. Any deliberations conducted and votes taken in rendering a final decision after a
86 hearing before an agency assigned to the division shall be closed to the parties and the public.

87 Once a final decision is rendered, that decision shall be made available to the parties and the
88 public.

89 10. A compelling governmental interest shall be deemed to exist for the purposes of
90 section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund balance
91 of any agency assigned to the division of professional registration is reasonably expected to
92 exceed an amount that would require transfer from that fund to general revenue.

93 11. (1) The following boards and commissions are assigned by specific type transfers
94 to the division of professional registration: Missouri state board of accountancy, chapter 326;
95 board of cosmetology and barber examiners, chapters 328 and 329; Missouri board for architects,
96 professional engineers, professional land surveyors and landscape architects, chapter 327;
97 Missouri state board of chiropractic examiners, chapter 331; state board of registration for the
98 healing arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers and
99 funeral directors, chapter 333; state board of optometry, chapter 336; Missouri state board of
100 nursing, chapter 335; board of pharmacy, chapter 338; state board of podiatric medicine, chapter
101 330; Missouri real estate appraisers commission, chapter 339; and Missouri veterinary medical
102 board, chapter 340. The governor shall appoint members of these boards by and with the advice
103 and consent of the senate.

104 (2) The boards and commissions assigned to the division shall exercise all their
105 respective statutory duties and powers, except those clerical and other staff services involving
106 collecting and accounting for moneys and financial management relating to the issuance and
107 renewal of licenses, which services shall be provided by the division, within the appropriation
108 therefor. Nothing herein shall prohibit employment of professional examining or testing services
109 from professional associations or others as required by the boards or commissions on contract.
110 Nothing herein shall be construed to affect the power of a board or commission to expend its
111 funds as appropriated. However, the division shall review the expense vouchers of each board.
112 The results of such review shall be submitted to the board reviewed and to the house and senate
113 appropriations committees annually.

114 (3) Notwithstanding any other provisions of law, the director of the division shall
115 exercise only those management functions of the boards and commissions specifically provided
116 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,
117 personnel other than board personnel, and equipment.

118 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330,
119 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose functions
120 and responsibilities are in areas not related to the clerical duties involving the issuance and
121 renewal of licenses **or certificates of registration**, to the collecting and accounting for moneys,
122 or to financial management relating to issuance and renewal of licenses **or certificates of**

registration; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration, and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of insurance, financial institutions and professional registration. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

12. All the powers, duties, and functions of the division of athletics, chapter 317, and others, are assigned by type I transfer to the division of professional registration.

13. Wherever the laws, rules, or regulations of this state make reference to the division of professional registration of the department of economic development, such references shall be deemed to refer to the division of professional registration.

14. (1) The state board of nursing, board of pharmacy, Missouri dental board, state committee of psychologists, state board of chiropractic examiners, state board of optometry, Missouri board of occupational therapy, or state board of registration for the healing arts may individually or collectively enter into a contractual agreement with the department of health and senior services, a public institution of higher education, or a nonprofit entity for the purpose of collecting and analyzing workforce data from its licensees, registrants, or permit holders for future workforce planning and to assess the accessibility and availability of qualified health care services and practitioners in Missouri. The boards shall work collaboratively with other state governmental entities to ensure coordination and avoid duplication of efforts.

(2) The boards may expend appropriated funds necessary for operational expenses of the program formed under this subsection. Each board is authorized to accept grants to fund the collection or analysis authorized in this subsection. Any such funds shall be deposited in the respective board's fund.

(3) Data collection shall be controlled and approved by the applicable state board conducting or requesting the collection. Notwithstanding the provisions of sections 324.010 and 334.001, the boards may release identifying data to the contractor to facilitate data analysis of the health care workforce including, but not limited to, geographic, demographic, and practice or professional characteristics of licensees. The state board shall not request or be authorized to collect income or other financial earnings data.

(4) Data collected under this subsection shall be deemed the property of the state board requesting the data. Data shall be maintained by the state board in accordance with chapter 610, provided that any information deemed closed or confidential under subsection 8 of this section or any other provision of state law shall not be disclosed without consent of the applicable licensee or entity or as otherwise authorized by law. Data shall only be released in an aggregate form by geography, profession or professional specialization, or population characteristic in a manner that cannot be used to identify a specific individual or entity. Data suppression standards shall be addressed and established in the contractual agreement.

(5) Contractors shall maintain the security and confidentiality of data received or collected under this subsection and shall not use, disclose, or release any data without approval of the applicable state board. The contractual agreement between the applicable state board and contractor shall establish a data release and research review policy to include legal and institutional review board, or agency-equivalent, approval.

(6) Each board may promulgate rules subject to the provisions of this subsection and chapter 536 to effectuate and implement the workforce data collection and analysis authorized by this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

341.300. As used under sections 341.300 to 341.345, 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;

8 (3) "Person", any individual, firm, partnership, association, corporation, limited
9 liability company, or other group or combination thereof acting as a unit;

10 (4) "Roofing contractor", one who has the experience, knowledge, and skill to
11 construct, reconstruct, alter, maintain, and repair roofs and use materials and items used
12 in the construction, reconstruction, alteration, maintenance, and repair of all kinds of
13 roofing and waterproofing as related to roofing, all in such manner to comply with all
14 plans, specifications, codes, laws, and regulations applicable thereto.

 341.305. 1. Beginning in January 1, 2019, no person shall practice or offer services
2 as a roofing contractor in this state for compensation or use any title, sign, abbreviation,
3 card, or device to indicate that such person is a roofing contractor unless he or she has
4 been registered according to the provisions of sections 341.300 to 341.345.

5 2. The following persons are not required to be registered as a roofing contractor
6 under sections 341.300 to 341.345:

7 (1) Persons subcontracted by a registered roofing contractor;

8 (2) The owner of property acting as a home improvement contractor; or

9 (3) Persons licensed by another state agency performing work within the scope of
10 their license and the roof repair does not exceed two thousand dollars, including
11 electricians, plumbers, and HVAC contractors.

 341.310. 1. There is hereby created in the state treasury the "Roofing Contractor
2 Fund", which shall consist of moneys collected under sections 341.300 to 341.345. The state
3 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,
4 the state treasurer may approve disbursements. The fund shall be a dedicated fund and,
5 upon appropriation, moneys in the fund shall be used solely for the administration of
6 sections 341.300 to 341.345.

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

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

 341.315. The department is authorized to promulgate rules and regulations
2 necessary for the administration of sections 341.300 to 341.345, including regulations
3 regarding:

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

6 (2) All applicable fees set at a level to produce revenue, which shall not exceed the
7 cost and expense of administering the provisions of sections 341.300 to 341.345; and

8 (3) The hiring of two full-time employees, one who may administer and oversee the
9 requirements of sections 341.300 to 341.345 and one who may investigate any alleged
10 misconduct under sections 341.300 to 341.345. The department may also hire additional
11 employees and make any other necessary employment decisions. Persons hired under this
12 subdivision shall be paid out of the roofing contractor fund established under section
13 341.310.

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

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

12 3. No certificate of registration shall be issued or renewed unless the applicant files
13 with the department proof of motor vehicle insurance for all business vehicles, a current
14 worker's compensation insurance policy, and liability insurance with a minimum level of
15 coverage as further promulgated by rule.

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

18 5. No certificate of registration shall be issued unless an applicant or out-of-state
19 applicant has a no tax due statement from the department of revenue.

 341.325. The department shall promulgate rules to implement the provisions of
2 sections 341.300 to 341.345. Any rule or portion of a rule, as that term is defined in section
3 536.010, that is created under the authority delegated in this section shall become effective
4 only if it complies with and is subject to all of the provisions of chapter 536 and, if
5 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
6 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
7 the effective date, or to disapprove and annul a rule are subsequently held
8 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
9 after August 28, 2017, shall be invalid and void.

341.330. 1. A roofing contractor shall affix the roofing contractor registration number and the registrant's name, as it appears on the certificate of registration, to all of his or her contracts and bids. In addition, the official issuing building permits shall affix the roofing contractor's registration number to each application for a building permit and on each building permit issued and recorded.

2. A roofing contractor shall display the registration issued under sections 341.00 to 341.345 in a conspicuous place in his or her principal office, place of business, or place of employment.

3. A person shall not advertise services regulated under sections 341.300 to 341.345 unless that person includes in the advertisement the roofing contractor registration number and the registrant's name, as it appears on the certificate of registration. A person who advertises services regulated by sections 341.300 to 341.345 and who knowingly:

(1) Fails to display the registration number and the registrant's name, as it appears on the registration, in any manner required by this section;

(2) Fails to provide a publisher with the correct registration number; or

(3) Provides a publisher with a false registration number or a registration number of another person, or a person who knowingly allows his or her registration number to be displayed or used by another person to circumvent any provisions of this section;

shall be found guilty of a class A misdemeanor with a fine of one thousand dollars.

341.333. Any complaint received by the department concerning a person who is the holder of a certificate of registration issued under sections 341.300 to 341.345 or any complaint regarding the offering of roofing contractor services shall be recorded as received and the date received. The department shall investigate all complaints concerning alleged violations of the provisions of sections 341.300 to 341.345 or if there are grounds for the suspension, revocation, or refusal to issue any certificate of registration.

341.335. 1. The department may refuse to issue or renew or suspend or revoke a roofing contractor certificate of registration for failing to meet the requirements of section 341.320. The department shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621. Notification shall be deemed sufficient if mailed, first class, to the address listed on the application for registration or renewal by the applicant.

2. The department may refuse to issue, renew, suspend, or revoke a certificate of registration for the following causes:

- 10 **(1) Impersonation of any person holding a roofing contractor certificate of**
11 **registration or allowing any person to use his or her certificate of registration;**
12 **(2) Issuance of a certificate of registration based upon a material mistake of fact;**
13 **or**
14 **(3) Failure to display a valid certificate if so required under sections 341.300 to**
15 **341.345 or by any rule promulgated hereunder.**

341.340. The department shall provide notice to the public after a natural disaster
2 **that roofing contractors under state law are required to be registered. Such notice shall**
3 **include the use of advertisements and public service announcements in print, broadcast**
4 **television, radio, and cable television media, as well as the posting of information on the**
5 **department's website.**

341.345. Except as provided in subsection 3 of section 341.330, any person found
2 **in violation of sections 341.300 to 341.345 shall be found guilty of a class A misdemeanor.**
3 **A second conviction for violating sections 341.300 to 341.345 within ten years after the first**
4 **conviction shall be a class E felony.**

 621.045. 1. The administrative hearing commission shall conduct hearings and make
2 findings of fact and conclusions of law in those cases when, under the law, a license **or**
3 **certificate of registration** issued by any of the following agencies may be revoked or suspended
4 or when the licensee **or registrant** may be placed on probation or when an agency refuses to
5 permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a
6 license **or certificate of registration** of an applicant who has passed an examination for
7 licensure or who possesses the qualifications for licensure **or registration** without examination:
8 Missouri State Board of Accountancy
9 Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors
10 and Landscape Architects
11 Board of Barber Examiners
12 Board of Cosmetology
13 Board of Chiropody and Podiatry
14 Board of Chiropractic Examiners
15 Missouri Dental Board
16 Board of Embalmers and Funeral Directors
17 Board of Registration for the Healing Arts
18 Board of Nursing
19 Board of Optometry
20 Board of Pharmacy
21 Missouri Real Estate Commission

22 Missouri Veterinary Medical Board
23 Supervisor of Liquor Control
24 Department of Health and Senior Services
25 Department of Insurance, Financial Institutions and Professional Registration
26 Department of Mental Health
27 Board of Private Investigator Examiners.

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

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

35 4. Notwithstanding any other provision of this section to the contrary, after August 28,
36 1995, in order to encourage settlement of disputes between any agency described in subsection
37 1 or 2 of this section and its licensees, any such agency shall:

38 (1) Provide the licensee with a written description of the specific conduct for which
39 discipline is sought and a citation to the law and rules allegedly violated, together with copies
40 of any documents which are the basis thereof and the agency's initial settlement offer, or file a
41 contested case against the licensee;

42 (2) If no contested case has been filed against the licensee, allow the licensee at least
43 sixty days, from the date of mailing, to consider the agency's initial settlement offer and to
44 contact the agency to discuss the terms of such settlement offer;

45 (3) If no contested case has been filed against the licensee, advise the licensee that the
46 licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen
47 days thereafter, submit the agreement to the administrative hearing commission for determination
48 that the facts agreed to by the parties to the settlement constitute grounds for denying or
49 disciplining the license of the licensee; and

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

53 5. If the licensee desires review by the administrative hearing commission under
54 subdivision (3) of subsection 4 of this section at any time prior to the settlement becoming final,
55 the licensee may rescind and withdraw from the settlement and any admissions of fact or law in
56 the agreement shall be deemed withdrawn and not admissible for any purposes under the law
57 against the licensee. Any settlement submitted to the administrative hearing commission shall

58 not be effective and final unless and until findings of fact and conclusions of law are entered by
59 the administrative hearing commission that the facts agreed to by the parties to the settlement
60 constitute grounds for denying or disciplining the license of the licensee.

61 6. When a holder of a license, registration, permit, or certificate of authority issued by
62 the division of professional registration or a board, commission, or committee of the division of
63 professional registration against whom an affirmative decision is sought has failed to plead or
64 otherwise respond in the contested case and adequate notice has been given under sections
65 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this
66 chapter or chapter 536, a default decision shall be entered against the licensee without further
67 proceedings. The default decision shall grant such relief as requested by the division of
68 professional registration, board, committee, commission, or office in the writing initiating the
69 contested case as allowed by law. Upon motion stating facts constituting a meritorious defense
70 and for good cause shown, a default decision may be set aside. The motion shall be made within
71 a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause"
72 includes a mistake or conduct that is not intentionally or recklessly designed to impede the
73 administrative process.

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