

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Roofing Industry Licensing Act is
5 amended by changing Sections 2, 3.5, 6, 9.1, and 10 and by
6 adding Section 10b as follows:

7 (225 ILCS 335/2) (from Ch. 111, par. 7502)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 2. Definitions. As used in this Act, unless the
10 context otherwise requires:

11 (a) "Licensure" means the act of obtaining or holding a
12 license issued by the Department as provided in this Act.

13 (b) "Department" means the Department of Professional
14 Regulation.

15 (c) "Director" means the Director of Professional
16 Regulation.

17 (d) "Person" means any individual, partnership,
18 corporation, business trust, limited liability company, or
19 other legal entity.

20 (e) "Roofing contractor" is one ~~whose services are~~
21 ~~unlimited in the roofing trade and~~ who has the experience,
22 knowledge and skill to construct, reconstruct, alter, maintain
23 and repair roofs and use materials and items used in the

1 construction, reconstruction, alteration, maintenance and
2 repair of all kinds of roofing and waterproofing as related to
3 roofing, all in such manner to comply with all plans,
4 specifications, codes, laws, and regulations applicable
5 thereto, but does not include such contractor's employees to
6 the extent the requirements of Section 3 of this Act apply and
7 extend to such employees.

8 (f) "Board" means the Roofing Advisory Board.

9 (g) "Qualifying party" means the individual filing as a
10 sole proprietor, partner of a partnership, officer of a
11 corporation, trustee of a business trust, or party of another
12 legal entity, who is legally qualified to act for the business
13 organization in all matters connected with its roofing
14 contracting business, has the authority to supervise roofing
15 installation operations, and is actively engaged in day to day
16 activities of the business organization.

17 "Qualifying party" does not apply to a seller of roofing
18 materials or services when the construction, reconstruction,
19 alteration, maintenance, or repair of roofing or waterproofing
20 is to be performed by a person other than the seller or the
21 seller's employees.

22 (h) "Limited roofing license" means a license made
23 available to contractors whose roofing business is limited to
24 residential roofing, including residential properties
25 consisting of 8 units or less.

26 (i) "Unlimited roofing license" means a license made

1 available to contractors whose roofing business is unlimited in
2 nature and includes roofing on residential, commercial, and
3 industrial properties.

4 (Source: P.A. 90-55, eff. 1-1-98; 91-950, eff. 2-9-01.)

5 (225 ILCS 335/3.5)

6 (Section scheduled to be repealed on January 1, 2016)

7 Sec. 3.5. Examination.

8 (a) The Department shall authorize examinations for
9 applicants for initial licenses at the time and place it may
10 designate. The examinations shall be of a character to fairly
11 test the competence and qualifications of applicants to act as
12 roofing contractors. Each applicant for limited licenses shall
13 designate a qualifying party who shall take an examination, the
14 technical portion of which shall cover residential roofing
15 practices. Each applicant for an unlimited license shall
16 designate a qualifying party who shall take an examination, the
17 technical portion of which shall cover residential,
18 commercial, and industrial roofing practices.

19 (b) An applicant for a limited license or an unlimited
20 license or a qualifying party designated by an applicant for a
21 limited license or unlimited license shall pay, either to the
22 Department or the designated testing service, a fee established
23 by the Department to cover the cost of providing the
24 examination. Failure of the individual scheduled to appear for
25 the examination on the scheduled date at the time and place

1 specified after his or her application for examination has been
2 received and acknowledged by the Department or the designated
3 testing service shall result in forfeiture of the examination
4 fee.

5 (c) A person who has a license as described in subsection
6 (1.5) of Section 3 is exempt from the examination requirement
7 of this Section, so long as (1) the license continues to be
8 valid and is renewed before expiration and (2) the person is
9 not newly designated as a qualifying party after July 1, 2003.
10 The qualifying party for an applicant for a new license must
11 have passed an examination authorized by the Department before
12 the Department may issue a license.

13 (d) The application for a license as a corporation,
14 business trust, or other legal entity submitted by a sole
15 proprietor who is currently licensed under this Act and exempt
16 from the examination requirement of this Section shall not be
17 considered an application for initial licensure for the
18 purposes of this subsection (d) if the sole proprietor is named
19 in the application as the qualifying party and is the sole
20 owner of the legal entity. Upon issuance of a license to the
21 new legal entity, the sole proprietorship license is
22 terminated.

23 The application for initial licensure as a partnership,
24 corporation, business trust, or other legal entity submitted by
25 a currently licensed partnership, corporation, business trust,
26 or other legal entity shall not be considered an application

1 for initial licensure for the purposes of this subsection (d)
2 if the entity's current qualifying party is exempt from the
3 examination requirement of this Section, that qualifying party
4 is named as the new legal entity's qualifying party, and the
5 majority of ownership in the new legal entity remains the same
6 as the currently licensed entity. Upon issuance of a license to
7 the new legal entity under this subsection (d), the former
8 license issued to the applicant is terminated.

9 (e) An applicant has 3 years after the date of his or her
10 application to complete the application process. If the process
11 has not been completed within 3 years, the application shall be
12 denied, the fee shall be forfeited, and the applicant must
13 reapply and meet the requirements in effect at the time of
14 reapplication.

15 (Source: P.A. 91-950, eff. 2-9-01.)

16 (225 ILCS 335/6) (from Ch. 111, par. 7506)

17 (Section scheduled to be repealed on January 1, 2016)

18 Sec. 6. Expiration; restoration; renewal ~~of license.~~

19 (a) The expiration date and renewal period for each
20 certificate of registration issued under this Act shall be set
21 by the Department by rule.

22 (b) A licensee who has permitted his or her license to
23 expire or whose license is on inactive status may have his or
24 her license restored by making application to the Department in
25 the form and manner prescribed by the Department. ~~(1) Licenses~~

1 ~~shall expire biennially at midnight on June 30 of each~~
2 ~~odd-numbered year.~~

3 ~~(2) Failure to renew the license prior to the expiration~~
4 ~~thereof shall cause the license to become nonrenewed and it~~
5 ~~shall be unlawful thereafter for the licensee to engage, offer~~
6 ~~to engage, or hold himself or herself out as engaging, in~~
7 ~~roofing contracting business under the license unless and until~~
8 ~~the license is restored or reissued as defined by rule.~~

9 (Source: P.A. 89-387, eff. 1-1-96; 90-55, eff. 1-1-98.)

10 (225 ILCS 335/9.1) (from Ch. 111, par. 7509.1)

11 (Section scheduled to be repealed on January 1, 2016)

12 Sec. 9.1. Grounds for disciplinary action. The Department
13 may refuse to issue or to renew, or may revoke, suspend, place
14 on probation, reprimand or take other disciplinary or
15 non-disciplinary action as the Department may deem proper,
16 including fines not to exceed \$10,000 ~~\$1,000~~ for each
17 violation, with regard to any license for any one or
18 combination of the following causes:

19 (a) violation of this Act or its rules;

20 (b) conviction or plea of guilty or nolo contendere of
21 any crime under the laws of the United States or any state
22 or territory thereof that U.S. jurisdiction which is (i) a
23 felony or (ii) ~~which is~~ a misdemeanor, an essential element
24 of which is dishonesty, ~~or that is of any crime which~~
25 directly related ~~relates~~ to the practice of the profession;

1 (c) making any misrepresentation for the purpose of
2 obtaining a license;

3 (d) professional incompetence or gross negligence in
4 the practice of roofing contracting, prima facie evidence
5 of which may be a conviction or judgment in any court of
6 competent jurisdiction against an applicant or licensee
7 relating to the practice of roofing contracting or the
8 construction of a roof or repair thereof that results in
9 leakage within 90 days after the completion of such work;

10 (e) (blank); ~~gross malpractice, prima facie evidence~~
11 ~~of which may be a conviction or judgment of malpractice in~~
12 ~~any court of competent jurisdiction;~~

13 (f) aiding or assisting another person in violating any
14 provision of this Act or rules;

15 (g) failing, within 60 days, to provide information in
16 response to a written request made by the Department which
17 has been sent by certified or registered mail to the
18 licensee's last known address;

19 (h) engaging in dishonorable, unethical, or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public;

22 (i) habitual or excessive use or addiction to alcohol,
23 narcotics, stimulants or any other chemical agent or drug
24 which results in the inability to practice with reasonable
25 judgment, skill, or safety;

26 (j) discipline by another U.S. jurisdiction or foreign

1 nation, if at least one of the grounds for the discipline
2 is the same or substantially equivalent to those set forth
3 in this Section;

4 (k) directly or indirectly giving to or receiving from
5 any person, firm, corporation, partnership, or association
6 any fee, commission, rebate, or other form of compensation
7 for any professional services not actually or personally
8 rendered;

9 (l) a finding by the Department that the licensee,
10 after having his or her license placed on probationary
11 status has violated the terms of probation;

12 (m) a finding conviction by any court of competent
13 jurisdiction, either within or without this State, of any
14 violation of any law governing the practice of roofing
15 contracting, if the Department determines, after
16 investigation, that such person has not been sufficiently
17 rehabilitated to warrant the public trust;

18 (n) a finding that licensure has been applied for or
19 obtained by fraudulent means;

20 (o) practicing, attempting to practice, or advertising
21 under a name other than the full name as shown on the
22 license or any other legally authorized name;

23 (p) gross and willful overcharging for professional
24 services including filing false statements for collection
25 of fees or monies for which services are not rendered;

26 (q) failure to file a return, or to pay the tax,

1 penalty or interest shown in a filed return, or to pay any
2 final assessment of tax, penalty or interest, as required
3 by any tax Act administered by the Illinois Department of
4 Revenue, until such time as the requirements of any such
5 tax Act are satisfied;

6 (r) the Department shall deny any license or renewal
7 under this Act to any person who has defaulted on an
8 educational loan guaranteed by the Illinois State
9 Scholarship Commission; however, the Department may issue
10 a license or renewal if the person in default has
11 established a satisfactory repayment record as determined
12 by the Illinois State Scholarship Commission;

13 (s) failure to continue to meet the requirements of
14 this Act shall be deemed a violation;

15 (t) physical or mental disability, including
16 deterioration through the aging process or loss of
17 abilities and skills that result in an inability to
18 practice the profession with reasonable judgment, skill,
19 or safety;

20 (u) material misstatement in furnishing information to
21 the Department or to any other State agency;

22 (v) the determination by a court that a licensee is
23 subject to involuntary admission or judicial admission as
24 provided in the Mental Health and Developmental
25 Disabilities Code will result in an automatic suspension of
26 his or her license. The suspension will end upon a finding

1 by a court that the licensee is no longer subject to
2 involuntary admission or judicial admission, the issuance
3 of an order so finding and discharging the patient, and the
4 recommendation of the Board to the Director that the
5 licensee be allowed to resume professional practice;

6 (w) advertising in any manner that is false,
7 misleading, or deceptive;~~;~~

8 (x) taking undue advantage of a customer, which results
9 in the perpetration of a fraud;

10 (y) performing any act or practice that is a violation
11 of the Consumer Fraud and Deceptive Business Practices Act;

12 (z) engaging in the practice of roofing contracting, as
13 defined in this Act, with a suspended, revoked, or
14 cancelled license;

15 (aa) treating any person differently to the person's
16 detriment because of race, color, creed, gender, age,
17 religion, or national origin;

18 (bb) knowingly making any false statement, oral,
19 written, or otherwise, of a character likely to influence,
20 persuade, or induce others in the course of obtaining or
21 performing roofing contracting services; or

22 (cc) violation of any final administrative action of
23 the Secretary.

24 The changes to this Act made by this amendatory Act of 1997
25 apply only to disciplinary actions relating to events occurring
26 after the effective date of this amendatory Act of 1997.

1 (Source: P.A. 89-387, eff. 1-1-96; 90-55, eff. 1-1-98.)

2 (225 ILCS 335/10) (from Ch. 111, par. 7510)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 10. Enforcement; petition to court.

5 (1) If any person violates the provisions of this Act, the
6 Director through the Attorney General of Illinois, or the
7 State's Attorney of any county in which a violation is alleged
8 to exist, may in the name of the People of the State of
9 Illinois petition for an order enjoining such violation or for
10 an order enforcing compliance with this Act. Upon the filing of
11 a verified petition in such court, the court may issue a
12 temporary restraining order, without notice or bond, and may
13 preliminarily and permanently enjoin such violation, and if it
14 is established that such person has violated or is violating
15 the injunction, the Court may punish the offender for contempt
16 of court.

17 (2) If any person shall practice as a licensee or hold
18 himself or herself out as a licensee without being licensed
19 under the provisions of this Act, then any person licensed
20 under this Act, any interested party or any person injured
21 thereby may, in addition to those officers identified in
22 subsection (1) of this Section, petition for relief as provided
23 therein.

24 (3) (Blank). ~~Whenever the Department has reason to believe~~
25 ~~that any person has violated the licensing requirements of this~~

1 ~~Act by practicing, offering to practice, attempting to~~
2 ~~practice, or holding himself or herself out to practice roofing~~
3 ~~without being licensed under this Act, the Department may issue~~
4 ~~a rule to show cause why an order to cease and desist should~~
5 ~~not be entered against that person. The rule shall clearly set~~
6 ~~forth the grounds relied upon by the Department and shall~~
7 ~~provide a period of 7 days from the date of the rule to file an~~
8 ~~answer to the satisfaction of the Department. Failure to answer~~
9 ~~to the satisfaction of the Department shall cause an order to~~
10 ~~cease and desist to be issued immediately.~~

11 (4) Proceedings under this Section shall be in addition to,
12 and not in lieu of, all other remedies and penalties which may
13 be provided by law.

14 (Source: P.A. 90-55, eff. 1-1-98; 91-950, eff. 2-9-01.)

15 (225 ILCS 335/10b new)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 10b. Unlicensed practice; order to cease and desist.
18 Whenever the Department has reason to believe that any person
19 has violated the licensing requirements of this Act by
20 practicing, offering to practice, attempting to practice, or
21 holding himself or herself out to practice roofing without
22 being licensed under this Act, the Department may issue an
23 order to cease and desist such practice without a hearing. The
24 order must clearly set forth the grounds relied upon by the
25 Department and provide notice that any individual or entity

1 receiving the order may petition the Department for a hearing
2 within a period of 21 days after the date of the order. Any
3 hearing held pursuant to this Section must be in accordance
4 with the hearing provisions set forth in this Act. Should any
5 person or entity that is issued an order to cease and desist
6 pursuant to this Section continue or again practice, offer to
7 practice, attempt to practice, or hold himself or herself out
8 to practice roofing without being licensed under this Act, the
9 Department may seek injunctive relief, impose a civil penalty
10 in accordance with this Act, or take any other action allowed
11 under this Act. Any order to cease and desist issued pursuant
12 to this Section shall be considered prima facie evidence of a
13 violation in any proceeding conducted pursuant to Section 10a
14 of this Act.