



Sen. Martin A. Sandoval

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1 AMENDMENT TO SENATE BILL 448

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 448 by replacing  
3 everything after the enacting clause with the following:

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8 (Section scheduled to be repealed on January 1, 2016)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

1 (d) "Person" means any individual, partnership,  
2 corporation, business trust, limited liability company, or  
3 other legal entity.

4 (e) "Roofing contractor" is one ~~whose services are~~  
5 ~~unlimited in the roofing trade and~~ who has the experience,  
6 knowledge and skill to construct, reconstruct, alter, maintain  
7 and repair roofs and use materials and items used in the  
8 construction, reconstruction, alteration, maintenance and  
9 repair of all kinds of roofing and waterproofing as related to  
10 roofing, all in such manner to comply with all plans,  
11 specifications, codes, laws, and regulations applicable  
12 thereto, but does not include such contractor's employees to  
13 the extent the requirements of Section 3 of this Act apply and  
14 extend to such employees.

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

16 (g) "Qualifying party" means the individual filing as a  
17 sole proprietor, partner of a partnership, officer of a  
18 corporation, trustee of a business trust, or party of another  
19 legal entity, who is legally qualified to act for the business  
20 organization in all matters connected with its roofing  
21 contracting business, has the authority to supervise roofing  
22 installation operations, and is actively engaged in day to day  
23 activities of the business organization.

24 "Qualifying party" does not apply to a seller of roofing  
25 materials or services when the construction, reconstruction,  
26 alteration, maintenance, or repair of roofing or waterproofing

1 is to be performed by a person other than the seller or the  
2 seller's employees.

3 (h) "Limited roofing license" means a license made  
4 available to contractors whose roofing business is limited to  
5 residential roofing, including residential properties  
6 consisting of 8 units or less.

7 (i) "Unlimited roofing license" means a license made  
8 available to contractors whose roofing business is unlimited in  
9 nature and includes roofing on residential, commercial, and  
10 industrial properties.

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

12 (225 ILCS 335/3.5)

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

14 Sec. 3.5. Examination.

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

1 (b) An applicant for a limited license or an unlimited  
2 license or a qualifying party designated by an applicant for a  
3 limited license or unlimited license shall pay, either to the  
4 Department or the designated testing service, a fee established  
5 by the Department to cover the cost of providing the  
6 examination. Failure of the individual scheduled to appear for  
7 the examination on the scheduled date at the time and place  
8 specified after his or her application for examination has been  
9 received and acknowledged by the Department or the designated  
10 testing service shall result in forfeiture of the examination  
11 fee.

12 (c) A person who has a license as described in subsection  
13 (1.5) of Section 3 is exempt from the examination requirement  
14 of this Section, so long as (1) the license continues to be  
15 valid and is renewed before expiration and (2) the person is  
16 not newly designated as a qualifying party after July 1, 2003.  
17 The qualifying party for an applicant for a new license must  
18 have passed an examination authorized by the Department before  
19 the Department may issue a license.

20 (d) The application for a license as a corporation,  
21 business trust, or other legal entity submitted by a sole  
22 proprietor who is currently licensed under this Act and exempt  
23 from the examination requirement of this Section shall not be  
24 considered an application for initial licensure for the  
25 purposes of this subsection (d) if the sole proprietor is named  
26 in the application as the qualifying party and is the sole

1 owner of the legal entity. Upon issuance of a license to the  
2 new legal entity, the sole proprietorship license is  
3 terminated.

4 The application for initial licensure as a partnership,  
5 corporation, business trust, or other legal entity submitted by  
6 a currently licensed partnership, corporation, business trust,  
7 or other legal entity shall not be considered an application  
8 for initial licensure for the purposes of this subsection (d)  
9 if the entity's current qualifying party is exempt from the  
10 examination requirement of this Section, that qualifying party  
11 is named as the new legal entity's qualifying party, and the  
12 majority of ownership in the new legal entity remains the same  
13 as the currently licensed entity. Upon issuance of a license to  
14 the new legal entity under this subsection (d), the former  
15 license issued to the applicant is terminated.

16 (e) An applicant has 3 years after the date of his or her  
17 application to complete the application process. If the process  
18 has not been completed within 3 years, the application shall be  
19 denied, the fee shall be forfeited, and the applicant must  
20 reapply and meet the requirements in effect at the time of  
21 reapplication.

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

23 (225 ILCS 335/6) (from Ch. 111, par. 7506)

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

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

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

4       (b) A licensee who has permitted his or her license to  
5 expire or whose license is on inactive status may have his or  
6 her license restored by making application to the Department in  
7 the form and manner prescribed by the Department. ~~(1) Licenses~~  
8 ~~shall expire biennially at midnight on June 30 of each~~  
9 ~~odd-numbered year.~~

10       ~~(2) Failure to renew the license prior to the expiration~~  
11 ~~thereof shall cause the license to become nonrenewed and it~~  
12 ~~shall be unlawful thereafter for the licensee to engage, offer~~  
13 ~~to engage, or hold himself or herself out as engaging, in~~  
14 ~~roofing contracting business under the license unless and until~~  
15 ~~the license is restored or reissued as defined by rule.~~

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

17       (225 ILCS 335/9.1) (from Ch. 111, par. 7509.1)

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

19       Sec. 9.1. Grounds for disciplinary action. The Department  
20 may refuse to issue or to renew, or may revoke, suspend, place  
21 on probation, reprimand or take other disciplinary or  
22 non-disciplinary action as the Department may deem proper,  
23 including fines not to exceed \$10,000 ~~\$1,000~~ for each  
24 violation, with regard to any license for any one or  
25 combination of the following causes:

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

2 (b) conviction or plea of guilty or nolo contendere of  
3 any crime under the laws of the United States or any state  
4 or territory thereof that U.S. jurisdiction which is (i) a  
5 felony or (ii) ~~which is~~ a misdemeanor, an essential element  
6 of which is dishonesty, ~~or that is of any crime which~~  
7 directly related ~~relates~~ to the practice of the profession;

8 (c) making any misrepresentation for the purpose of  
9 obtaining a license;

10 (d) professional incompetence or gross negligence in  
11 the practice of roofing contracting, prima facie evidence  
12 of which may be a conviction or judgment in any court of  
13 competent jurisdiction against an applicant or licensee  
14 relating to the practice of roofing contracting or the  
15 construction of a roof or repair thereof that results in  
16 leakage within 90 days after the completion of such work;

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

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

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

26 (h) engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,  
2 defraud, or harm the public;

3 (i) habitual or excessive use or addiction to alcohol,  
4 narcotics, stimulants or any other chemical agent or drug  
5 which results in the inability to practice with reasonable  
6 judgment, skill, or safety;

7 (j) discipline by another U.S. jurisdiction or foreign  
8 nation, if at least one of the grounds for the discipline  
9 is the same or substantially equivalent to those set forth  
10 in this Section;

11 (k) directly or indirectly giving to or receiving from  
12 any person, firm, corporation, partnership, or association  
13 any fee, commission, rebate, or other form of compensation  
14 for any professional services not actually or personally  
15 rendered;

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

19 (m) a finding conviction by any court of competent  
20 jurisdiction, either within or without this State, of any  
21 violation of any law governing the practice of roofing  
22 contracting, if the Department determines, after  
23 investigation, that such person has not been sufficiently  
24 rehabilitated to warrant the public trust;

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



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

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

7           (q) failure to file a return, or to pay the tax,  
8           penalty or interest shown in a filed return, or to pay any  
9           final assessment of tax, penalty or interest, as required  
10          by any tax Act administered by the Illinois Department of  
11          Revenue, until such time as the requirements of any such  
12          tax Act are satisfied;

13          (r) the Department shall deny any license or renewal  
14          under this Act to any person who has defaulted on an  
15          educational loan guaranteed by the Illinois State  
16          Scholarship Commission; however, the Department may issue  
17          a license or renewal if the person in default has  
18          established a satisfactory repayment record as determined  
19          by the Illinois State Scholarship Commission;

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

22          (t) physical or mental disability, including  
23          deterioration through the aging process or loss of  
24          abilities and skills that result in an inability to  
25          practice the profession with reasonable judgment, skill,  
26          or safety;

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

3 (v) the determination by a court that a licensee is  
4 subject to involuntary admission or judicial admission as  
5 provided in the Mental Health and Developmental  
6 Disabilities Code will result in an automatic suspension of  
7 his or her license. The suspension will end upon a finding  
8 by a court that the licensee is no longer subject to  
9 involuntary admission or judicial admission, the issuance  
10 of an order so finding and discharging the patient, and the  
11 recommendation of the Board to the Director that the  
12 licensee be allowed to resume professional practice;

13 (w) advertising in any manner that is false,  
14 misleading, or deceptive;

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

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

19 (z) engaging in the practice of roofing contracting, as  
20 defined in this Act, with a suspended, revoked, or  
21 cancelled license;

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

25 (bb) knowingly making any false statement, oral,  
26 written, or otherwise, of a character likely to influence,

1       persuade, or induce others in the course of obtaining or  
2       performing roofing contracting services; or  
3       (cc) violation of any final administrative action of  
4       the Secretary.

5       The changes to this Act made by this amendatory Act of 1997  
6       apply only to disciplinary actions relating to events occurring  
7       after the effective date of this amendatory Act of 1997.

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

9       (225 ILCS 335/10) (from Ch. 111, par. 7510)

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

11       Sec. 10. Enforcement; petition to court.

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

24       (2) If any person shall practice as a licensee or hold  
25       himself or herself out as a licensee without being licensed

1 under the provisions of this Act, then any person licensed  
2 under this Act, any interested party or any person injured  
3 thereby may, in addition to those officers identified in  
4 subsection (1) of this Section, petition for relief as provided  
5 therein.

6 (3) (Blank). ~~Whenever the Department has reason to believe~~  
7 ~~that any person has violated the licensing requirements of this~~  
8 ~~Act by practicing, offering to practice, attempting to~~  
9 ~~practice, or holding himself or herself out to practice roofing~~  
10 ~~without being licensed under this Act, the Department may issue~~  
11 ~~a rule to show cause why an order to cease and desist should~~  
12 ~~not be entered against that person. The rule shall clearly set~~  
13 ~~forth the grounds relied upon by the Department and shall~~  
14 ~~provide a period of 7 days from the date of the rule to file an~~  
15 ~~answer to the satisfaction of the Department. Failure to answer~~  
16 ~~to the satisfaction of the Department shall cause an order to~~  
17 ~~cease and desist to be issued immediately.~~

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

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

22 (225 ILCS 335/10b new)

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

24 Sec. 10b. Unlicensed practice; order to cease and desist.  
25 Whenever the Department has reason to believe that any person

1 has violated the licensing requirements of this Act by  
2 practicing, offering to practice, attempting to practice, or  
3 holding himself or herself out to practice roofing without  
4 being licensed under this Act, the Department may issue an  
5 order to cease and desist such practice without a hearing. The  
6 order must clearly set forth the grounds relied upon by the  
7 Department and provide notice that any individual or entity  
8 receiving the order may petition the Department for a hearing  
9 within a period of 21 days after the date of the order. Any  
10 hearing held pursuant to this Section must be in accordance  
11 with the hearing provisions set forth in this Act. Should any  
12 person or entity that is issued an order to cease and desist  
13 pursuant to this Section continue or again practice, offer to  
14 practice, attempt to practice, or hold himself or herself out  
15 to practice roofing without being licensed under this Act, the  
16 Department may seek injunctive relief, impose a civil penalty  
17 in accordance with this Act, or take any other action allowed  
18 under this Act. Any order to cease and desist issued pursuant  
19 to this Section shall be considered prima facie evidence of a  
20 violation in any proceeding conducted pursuant to Section 10a  
21 of this Act."