

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

AMEND House Committee Substitute for Senate Bill No. 835, Page 52, Section 336.020, Line 9,  
by inserting after all of said section and line the following:

"341.300. As used in sections 341.300 to 341.345 the following terms shall mean:

(1) "Board", the Missouri state board of roofing contractors as established in section  
341.305;

(2) "Department", the department of insurance, financial institutions and professional  
registration;

(3) "Director", the director of the division of professional registration;

(4) "Division", the division of professional registration;

(5) "Nonresidential contractor", any roofing contractor 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;

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

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

341.305. 1. Beginning in January 1, 2018, no person shall practice or offer services as a  
roofing contractor in this state for compensation or use any title, sign, abbreviation, card, or device  
to indicate that such person is a roofing contractor unless he or she has been registered according to  
the provisions of section 341.300 to 341.345.

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

(1) Persons subcontracted by a registered roofing contractor;

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

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

341.310. 1. There is hereby established within the division of professional registration in  
the department of insurance, financial institutions and professional registration the "Missouri State  
Board of Roofing Contractors" which shall guide, advise, and make recommendations to the  
division and fulfill other responsibilities designated by sections 341.300 to 341.345.

2. The board shall consist of eight members, including three public members, appointed by

Standing Action Taken \_\_\_\_\_ Date \_\_\_\_\_

Select Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 the governor with the advice and consent of the senate. Each member of the board shall be a citizen  
2 of the United States, a resident of this state for at least one year, and a registered voter. All  
3 nonpublic members of the board shall have at least five years of experience in the profession of  
4 roofing, two such members shall be appointed from a list of ten names submitted by the Association  
5 of Builders and Contractors, Inc., or its successor organization, and one of such members shall be  
6 appointed from a list of at least five names submitted by the National Association of Independent  
7 Insurance Adjusters, or its successor organization, and two of such members shall be appointed  
8 from a list of at least ten names submitted by the Roofing and Siding Contractors Alliance, Inc., or  
9 its successor organization. Four of the board members shall be members of a labor organization and  
10 four of the board members shall not be members of a labor organization.

11 3. The public members shall not have been a roofing contractor or an immediate family  
12 member of such a person and may not have had a material, financial interest in either providing  
13 services as a roofing contractor or in an activity or organization directly related to roof repair.

14 4. Beginning with the appointments made after August 28, 2016, three members shall be  
15 appointed for four years, two members shall be appointed for three years, and two members shall be  
16 appointed for two years. Thereafter, the terms of the members shall be for five years, and until their  
17 successors are appointed and qualified. No member shall serve more than two terms total.

18 5. A vacancy in the office of a member shall be filled by appointment by the governor for  
19 the remainder of the unexpired term. The person appointed to fill the vacancy shall have the same  
20 qualifications as the previous member. If the vacancy is not filled by the governor within sixty  
21 days, then the lieutenant governor shall appoint someone to fill the vacancy.

22 6. The board shall hold an annual meeting at which all seven members shall be physically  
23 present in order to have a quorum. At such meeting, the board shall elect from its membership a  
24 chairperson, vice chairperson, and secretary who shall serve in such capacity for one year. The  
25 board may hold additional meetings as may be required in the performance of its duties. At the  
26 additional meetings, a quorum of the board shall consist of at least five members, and may be held  
27 by telephone or video conference at the discretion of the board.

28 7. The governor may remove a board member for misconduct, incompetence, or neglect of  
29 official duties after giving the board member written notice of the charges and allowing the board  
30 member an opportunity to be heard. Members may also be terminated for the following reasons:  
31 change of legal residence by moving out of the state; missing three consecutive meetings; or having  
32 the certificate of registration revoked or suspended.

33 8. Notwithstanding any other provision of law, any appointed member of the board shall  
34 receive as compensation, an amount established by the director of the division of professional  
35 registration not to exceed seventy dollars per day for commission business plus actual and necessary  
36 expenses.

37 9. No registration activity or other statutory requirements shall become effective until  
38 expenditures or personnel are specifically appropriated for the purpose of conducting the business as  
39 required to administer the provisions of 341.300 to 341.345 and the initial rules filed have become  
40 effective.

41 10. The board shall keep records of its official acts, and certified copies of any such records  
42 attested by a designee of the board shall be received as evidence in all courts to the same extent as  
43 the board's original records would be received.

44 11. All funds received by the board under the provisions of sections 341.300 to 341.345  
45 shall be collected by the director who shall transmit the funds to the department of revenue for  
46 deposit in the state treasury to the credit of the "State Roofing Contractors Fund" which is hereby  
47 created. Notwithstanding the provisions of section 33.080 to the contrary, moneys in this fund shall  
48 not be transferred and placed to the credit of general revenue until the amount in the fund at the end

1 of the biennium exceeds three times the amount of the appropriation from the fund for the preceding  
2 fiscal year.

3 12. The board may, within the limits of appropriations, employ such board personnel as  
4 defined in subdivision (4) of subsection 11 of section 324.001 as may be necessary to carry out its  
5 duties.

6 13. All expenses of the board shall be paid only from appropriations made for that purpose  
7 from the division.

8 341.315. 1. The board is authorized to promulgate rules and regulations necessary for the  
9 administration of sections 341.300 to 341.345, including regulations regarding:

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

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

14 2. Any rule or portion of a rule, as that term is defined in section 536.010 that is created  
15 under the authority delegated in this section shall become effective only if it complies with and is  
16 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
17 chapter 536, are nonseverable, and if any of the powers vested with the general assembly pursuant  
18 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
19 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
20 adopted after August 28, 2016, shall be invalid and void.

21 341.320. 1. An applicant for registration as a roofing contractor shall submit to the board a  
22 completed application furnished by the board accompanied by the required nonrefundable fee of no  
23 more than three hundred dollars or a renewal fee to be determined by the board. Such application  
24 shall include the applicant's name, business name, evidence of workers' compensation coverage and  
25 unemployment insurance, a landline telephone number, a street address, and such pertinent  
26 information as the board may require.

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

30 3. No certification of registration shall be issued or renewed unless the applicant files with  
31 the board proof of motor vehicle insurance for all business vehicles, a current worker's  
32 compensation insurance policy, and liability insurance with a minimum level of coverage as further  
33 promulgated by rule.

34 4. No certificate of registration shall be issued if a nonresident applicant has had a license  
35 revoked or suspended in another state.

36 5. No certificate of registration shall be issued unless an applicant or nonresident applicant  
37 has a no tax due statement from the department of revenue.

38 341.330. 1. A roofing contractor shall affix the roofing contractor registration number and  
39 the registrant's name, as it appears on the certificate of registration, to all of his or her contracts and  
40 bids. In addition, the official issuing building permits shall affix the roofing contractor's registration  
41 number to each application for a building permit and on each building permit issued and recorded.

42 2. A roofing contractor shall display the registration issued under sections 341.00 to  
43 341.345 in a conspicuous place in his or her principal office, place of business, or place of  
44 employment.

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

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

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

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

7  
8 shall be found guilty of a class A misdemeanor with a fine of one thousand dollars.

9       341.333. Any complaint received by the board concerning a person who is the holder of a  
10 certificate of registration issued under sections 341.300 to 341.345 or any complaint regarding the  
11 offering of roofing contractor services shall be recorded as received and the date received. The  
12 board shall investigate all complaints concerning alleged violations of the provisions of sections  
13 341.300 to 341.345 or if there are grounds for the suspension, revocation, or refusal to issue any  
14 certificate of registration. The board may employ investigators who shall investigate complaints  
15 and make inspections and any inquiries as, in the judgment of the board, are appropriate to enforce  
16 the provisions of sections 341.300 to 341.345.

17       341.335. 1. The board may refuse to issue or renew a roofing contractor certificate of  
18 registration for one or any combination of causes stated in subsection 2 of this section or for failing  
19 to meet the requirements of section 341.320. The board shall notify the applicant in writing of the  
20 reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the  
21 administrative hearing commission as provided by chapter 621. Notification shall be deemed  
22 sufficient if mailed, first class, to the address listed in the application for registration or renewal by  
23 the applicant.

24       2. The board may cause a complaint to be filed with the administrative hearing commission  
25 as provided by chapter 621 against any holder of a roofing contractor certificate of registration or  
26 any person who has failed to renew or has surrendered his or her permit or certificate of registration  
27 for any one or any combination of the following causes:

28       (1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or  
29 nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for  
30 any offense reasonably related to the qualifications, functions, or duties of any roofing contractor  
31 registered under sections 341.300 to 341.345, for any offense an essential element of which is fraud,  
32 dishonesty, or an act of violence, or any offense involving moral turpitude, whether a sentence is  
33 imposed;

34       (2) Use of fraud, deception, misrepresentation, or bribery in securing a roofing certificate of  
35 registration;

36       (3) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in  
37 the performance of, or relating to one's ability to perform, the functions or duties of a roofing  
38 contractor;

39       (4) Violation of, or assisting or enabling any person to violate, any provision of sections  
40 341.300 to 341.345, or any lawful rule or regulation adopted under sections 341.300 to 341.345;

41       (5) Impersonation of any person holding a roofing contractor certificate of registration or  
42 allowing any person to use his or her certificate of registration;

43       (6) Disciplinary action against the holder of a certificate of registration or other right to  
44 practice as a roofing contractor imposed by another state, province, territory, federal agency, or  
45 country upon grounds for which discipline is authorized in this state;

46       (7) A person is finally adjudicated incapacitated or disabled by a court of competent  
47 jurisdiction;

48       (8) Assisting or enabling any person to practice or offer to practice, by lack of supervision

1 or in any other manner, as a roofing contractor who is not registered and currently eligible to  
 2 practice under sections 341.300 to 341.345;

3 (9) Issuance of a certificate of registration based upon a material mistake of fact;

4 (10) Failure to display a valid certificate if so required by sections 341.300 to 341.345 or by  
 5 any rule promulgated hereunder;

6 (11) Violation of any professional trust or confidence;

7 (12) Use of any advertisement or solicitation that is false, misleading, or deceptive to the  
 8 general public or persons to whom the advertisement or solicitation is primarily directed;

9 (13) Failing to provide information to the division or board within sixty days of receiving a  
 10 written request sent by the division or the board by certified or registered mail to the registrant's last  
 11 known address;

12 (14) Willfully and continually overcharging for professional services including filing for  
 13 collection of fees or moneys for services that have not been rendered;

14 (15) Directly or indirectly receiving compensation for services not rendered.

15 3. After the filing of such complaint, the proceedings shall be conducted in accordance with  
 16 the provisions of chapter 621. Upon a finding by the administrative hearing commission that the  
 17 grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may,  
 18 singly or in combination:

19 (1) Censure or place the person named in the complaint on probation on such terms and  
 20 conditions as the board deems appropriate for a period not to exceed five years;

21 (2) Suspend the certificate of registration for a period not to exceed three years;

22 (3) Revoke the certificate of registration. In any order of revocation, the board may provide  
 23 that the person shall not register for a period of not less than one year following the date of the order  
 24 of revocation; or

25 (4) Request the attorney general to bring an action in the circuit court of competent  
 26 jurisdiction to recover a civil penalty on behalf of the state in an amount to be assessed by the court.

27 4. At all proceedings for the enforcement of these or any other provisions of sections  
 28 341.300 to 341.345 the board shall, as it deems necessary, select, in its discretion, either the attorney  
 29 general or one of the attorney general's assistants designated by the attorney general or other legal  
 30 counsel to appear and represent the board at each stage of such proceeding or trial until its  
 31 conclusion.

32 5. The chairperson or vicechairperson of the board may administer oaths, subpoena  
 33 witnesses, issue subpoenas duces tecum, and require production of documents and records.  
 34 Subpoenas, including subpoenas duces tecum, shall be served by a person authorized to serve  
 35 subpoenas of courts of record. In lieu of requiring attendance of a person to produce original  
 36 documents in response to a subpoena duces tecum, the board may require sworn copies of such  
 37 documents to be filed with it or delivered to its designated representative.

38 6. The board may enforce its subpoenas, including subpoena duces tecum, by applying to a  
 39 circuit court of Cole County; the county of the investigation, hearing, or proceeding; or any county  
 40 where the person resides or may be found, for an order upon any person who shall fail to obey a  
 41 subpoena to show cause why such subpoena should not be enforced, which such order and a copy of  
 42 the application therefore shall be served upon the person in the same manner as a summons in a civil  
 43 action, and, if the circuit court shall, after a hearing, determine that the subpoena should be  
 44 sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as  
 45 though the subpoena had been issued in a civil case in the circuit court.

46 341.340. The division shall provide notice to the public after a natural disaster that roofing  
 47 contractors under state law are required to be registered. Such notice shall include the use of  
 48 advertisements and public service announcements in print, broadcast television, radio, and cable

1 television media, as well as the posting of information on the division's website.

2 341.345. Except as provided in subsection 3 of section 341.330, any person found in  
 3 violation of sections 341.300 to 341.345 shall be found guilty of a class A misdemeanor. A second  
 4 conviction for violating sections 341.300 to 341.345 within ten years after the first conviction shall  
 5 be a class D felony until December 31, 2016, and beginning on January 1, 2017, a class E felony.

6 621.045. 1. The administrative hearing commission shall conduct hearings and make  
 7 findings of fact and conclusions of law in those cases when, under the law, a license or certificate of  
 8 registration issued by any of the following agencies may be revoked or suspended or when the  
 9 licensee or registrant may be placed on probation or when an agency refuses to permit an applicant  
 10 to be examined upon his or her qualifications or refuses to issue or renew a license or certificate of  
 11 registration of an applicant who has passed an examination for licensure or who possesses the  
 12 qualifications for licensure or registration without examination:

13 Missouri State Board of Accountancy  
 14 Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors  
 15 and Landscape Architects  
 16 Board of Barber Examiners  
 17 Board of Cosmetology  
 18 Board of Chiropody and Podiatry  
 19 Board of Chiropractic Examiners  
 20 Missouri Dental Board  
 21 Board of Embalmers and Funeral Directors  
 22 Board of Registration for the Healing Arts  
 23 Board of Nursing  
 24 Board of Optometry  
 25 Board of Pharmacy  
 26 Missouri Real Estate Commission  
 27 Missouri Veterinary Medical Board  
 28 Supervisor of Liquor Control  
 29 Department of Health and Senior Services  
 30 Department of Insurance, Financial Institutions and Professional Registration  
 31 Department of Mental Health  
 32 Board of Private Investigator Examiners.

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

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

40 4. Notwithstanding any other provision of this section to the contrary, after August 28,  
 41 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or  
 42 2 of this section and its licensees, any such agency shall:

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

47 (2) If no contested case has been filed against the licensee, allow the licensee at least sixty  
 48 days, from the date of mailing, to consider the agency's initial settlement offer and to contact the

1 agency to discuss the terms of such settlement offer;

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

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

10 5. If the licensee desires review by the administrative hearing commission under subdivision  
11 (3) of subsection 4 of this section at any time prior to the settlement becoming final, the licensee  
12 may rescind and withdraw from the settlement and any admissions of fact or law in the agreement  
13 shall be deemed withdrawn and not admissible for any purposes under the law against the licensee.  
14 Any settlement submitted to the administrative hearing commission shall not be effective and final  
15 unless and until findings of fact and conclusions of law are entered by the administrative hearing  
16 commission that the facts agreed to by the parties to the settlement constitute grounds for denying or  
17 disciplining the license of the licensee.

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

30  
31 Further amend said bill by amending the title, enacting clause, and intersectional references  
32 accordingly.