

2021 Kansas Statutes

50-6,133. Same; violations; complaints; investigations; subpoenas. (a) No roofing contractor or any person providing services as a roofing contractor shall:

- (1) Abandon a roofing contract without legal grounds after a deposit of money or other consideration has been paid;
- (2) divert any funds or property entrusted to a roofing contractor;
- (3) engage in any fraudulent or deceptive acts or practices or misrepresentation of products, services or qualifications as a roofing contractor;
- (4) make a false or misleading statement in an application for a roofing contractor registration certificate or renewal application or in soliciting a contract for roofing services;
- (5) violate any judgment or order by a court of competent jurisdiction against the roofing contractor for a violation of the provisions of this act;
- (6) engage in work without a valid registration certificate as required for roofing contractors pursuant to this act or performing roofing services during any period when the roofing contractor's registration certificate is denied, suspended or revoked;
- (7) engage in roofing services without obtaining a proper permit as may be required by any state or local authority;
- (8) fail to comply with any tax laws authorized by the state or any of its political subdivisions;
- (9) damage or injure any person or property while performing roofing services under a valid roofing contractor registration certificate for which the roofing contractor's liability insurance or workers' compensation coverage was inadequate; or
- (10) fail to comply with any provision of this act or any rule and regulation adopted thereunder.

(b) Any person may file a duly verified complaint with the attorney general alleging one or more violations of subsection (a). The complaint shall be on a form approved by the attorney general and shall set forth the alleged act or omission stated in subsection (a), and a statement of sufficient facts upon which a reasonable person could conclude that the act or omission specified in subsection (a) has been committed. Nothing in this section shall be construed to require the complainant to first file a complaint with the attorney general before seeking relief or remedies allowed by law.

(c) A complaint received by the attorney general as provided in this section may be investigated by the attorney general or referred to any county or district attorney for appropriate disposition or investigation. The attorney general is hereby authorized to:

- (1) Make investigations and examinations of the registrant's operations, books and records as the attorney general deems necessary for the protection of the public and control access to any documents and records of the licensee or registrant under examination or investigation;
- (2) charge reasonable costs of investigation, examination and administration of this act, to be paid by the applicant, licensee or registrant;
- (3) exchange any information regarding the administration of this act with any agency of the United States or any state or political subdivision thereof which regulates the licensee or registrant or administers statutes, rules and regulations or programs related to the roofing business, and to enter into information-sharing arrangements with other governmental agencies or associations representing governmental agencies which are deemed necessary or beneficial to the administration of this act;
- (4) disclose to any person or entity that an applicant's, licensee's or registrant's application, license or registration certificate has been denied, suspended, revoked or refused renewal;

(5) require or permit any person to file a written statement, under oath or otherwise as the attorney general may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, or any rule and regulation promulgated thereunder or any order issued pursuant to this act;

(6) receive, as a condition in settlement of any investigation or examination, a payment designated for the roofing contractor registration fee fund as directed by the attorney general;

(7) refer such evidence as may be available concerning any violation of this act or of any rule and regulation or order hereunder to the proper county or district attorney, who may in the attorney general's discretion, with or without such a referral, institute the appropriate criminal proceedings under this act;

(8) establish relationships or contracts with any other government programs which require the licensing or registration of roofing contractors or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees, registrants or other persons subject to this act and to take such other actions as may be reasonably necessary to facilitate cooperation between such governmental entities or agencies and industry trade associations. The attorney general shall regularly report violations of law, as well as enforcement actions and other relevant information to any multi-state or nationwide licensing system and registry; and

(9) require any registrant to file with any such roofing contractor licensing system or registry in the form prescribed by the attorney general or the attorney general's designee.

(d) For the purpose of any examination, investigation or proceeding under this act, the attorney general or any officer designated by the attorney general may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter which is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of relevant information or items.

(e) In case of refusal to obey a subpoena or court order issued to any person, any court of competent jurisdiction, upon application by the attorney general, may issue to that person an order requiring the person to appear before the attorney general, or the officer designated by the attorney general, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(f) No person is excused from attending and testifying or from producing any document or record before the attorney general or in obedience to the subpoena of the attorney general or in any proceeding instituted by the attorney general, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction or matter concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

History: L. 2013, ch. 115, § 13; July 1.