
DIGEST

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HB 199 Engrossed

2023 Regular Session

Romero

Abstract: Provides for certain residential contractor, construction, and construction management licenses and repeals certain home improvement provisions.

Present law (R.S. 37:2150.1(4)(a)) defines "contractor" as any person who undertakes to, attempts to, or submits a price or bid or offers to construct, supervise, superintend, oversee, direct, or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down, furnishing labor, or furnishing labor together with material or equipment, or installing material or equipment for:

- (1) Any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, or housing development, improvement, or any other construction undertaking for which the entire cost is \$50,000 or more when the property is to be used for commercial purposes.
- (2) Any new residential structure where the entire cost is \$75,000 or more when the property is used for residential purposes.
- (3) Any improvements or repairs where the entire cost exceeds \$7,500 to an existing residential structure.
- (4) Any mold remediation where the entire cost exceeds \$7,500.

Proposed law expands a contractor's installation of material or equipment from any new residential structure to also include the renovation, repair, and maintenance of an existing residential structure.

Proposed law lowers the licensing threshold for residential structures from \$75,000 to \$10,000.

Proposed law repeals the contractor classification for any improvements to an existing residential structure where the entire cost exceeds \$7,500.

Present law (R.S. 37:2150.1(8)) defines "home improvement contracting" as the reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, or demolition, or the construction of an addition to any preexisting residential structure which building is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent to such residence or building where the project value exceeds \$7,500 but is not greater than \$75,000. Present law further provides that home improvement contracting shall not include services rendered

gratuitously.

Proposed law repeals present law.

Present law (R.S. 37: 2150.1(9)) defines "home improvement contractor" as any person who undertakes or attempts to undertake or submits a price or bid on any home improvement contracting project. Proposed law repeals present law.

Present law (R.S. 37:2150.1(15)) defines "residential contractor" as any person who constructs a fixed building or structure for sale or use as a residence. Present law also provides that "residential contractor" includes all persons who receive an additional fee for the employment or direction of labor, or any other work beyond the normal architectural or engineering services.

Proposed law retains present law and adds that a residential contractor is a person who:

- (1) Constructs an accessory building or an out building adjacent to a structure intended to be used as residence.
- (2) Performs renovation, repair, or maintenance of an existing structure intended to be used for residential purposes.

Proposed law lowers the threshold for licensure of a residential contractor from a cost that exceeds \$75,000 to a cost that equals or exceeds \$10,000.

Present law further defines "residential contractor" as any person performing home improvement contracting when the cost exceeds \$75,000. Proposed law repeals present law.

Present law (R.S. 37:2151(B)(5)) provides that at least 2 members of the board shall be appointed from a list of 4 names submitted by the American Subcontractors Association of La., and the greater part of their subcontractor experience should be in fields other than electrical or mechanical construction.

Proposed law provides that 2 members shall instead be the House Commerce and Senate Commerce chairpersons or their designees.

Present law (R.S. 37:2155(G)(1)) provides that the residential subcommittee has the power and duty to regulate residential and home improvement contractors in the state.

Proposed law repeals the power and duty of the residential subcommittee to regulate home improvement in the state.

Present law (R.S. 37:2156(C)(5)) provides that the home improvement fee shall not exceed \$50.00 for the additional license classification. Proposed law repeals present law.

Present law (R.S. 37:2156.1(E)) provides the licensure of residential construction and home

improvement construction. Proposed law repeals licensure for home improvement construction.

Proposed law (R.S. 37:2156.1(M)) provides that any individual who is domiciled in this state and maintained a home improvement contractor's registration certificate for at least 3 years prior to the effective date of proposed law will be exempt for the residential contractor trade examination and issued a residential contractor's license if the individual has maintained compliance has no violations with the board.

Present law (R.S. 37:2157) provides for certain licensure exemptions.

Proposed law adds a licensure exemption for any person performing as a subcontractor who is overseen by a licensed residential contractor, not including electrical, mechanical, plumbing, mold, asbestos, or hazardous material scopes of work. Proposed law further adds that a contractor shall be licensed if the contractor works for a homeowner and changes home improvement contractor exemptions to residential contractor exemptions for landscaping, painting or wall covering.

Present law (R.S. 37:2158(A)(15)) provides that the board and residential subcommittee may revoke, suspend, or refuse to renew a license; issue cease and desist orders to stop work; issue fines and penalties; or debar any licensed person for failure of a contractor who performs residential or home improvement construction.

Proposed law retains present law with respect to residential construction but proposed law repeals present law with respect to home improvement construction.

Present law (R.S. 37:2159) provides that every agreement for any licensee to perform home improvement contracting services in an amount in excess of \$7,500, but no more than \$75,000, shall be in writing. Present law further provides that no work shall begin prior to the signing of the contract and transmittal to the owner of a copy of the contract.

Proposed law repeals present law.

Present law also provides that a home improvement contractor who fails to obtain a license shall not be entitled to file a statement of claim or a statement of lien or privilege with respect to monetary sums allegedly owed under any contract when the home improvement contractor is required to possess a home improvement license issued by the residential subcommittee.

Proposed law repeals present law.

Present law (R.S. 37:2159.1) prohibits persons performing home improvement contracting from engaging in the following:

- (1) Interpreting insurance policy provisions or advising an insured regarding coverage or duties under the insured's property insurance policy.
- (2) Adjusting a property insurance claim on behalf of an insured, unless the contractor holds a

public adjuster license.

- (3) Providing an insured with an agreement authorizing repairs without providing a good faith estimate of the itemized and detailed cost of services and materials for repairs undertaken pursuant to a property damage claim.
- (4) Sharing in any legal fee earned by an attorney.
- (5) Requiring an insured to sign an attorney representation agreement on the attorney's behalf.
- (6) Accepting a fee, commission, or other valuable consideration in exchange for a referral to an attorney or law firm by the person.
- (7) Accepting an assignment of any rights, benefits, proceeds, or causes of action of an insured under a property insurance policy prior to completing the work described in the home improvement contract and prior to the property insurer conducting its initial examination of the damage caused by the covered peril.

Proposed law changes home improvement contractor and home improvement contracting to residential contractor and residential contracting with respect to the enumerated prohibited acts for property insurance.

Present law requires any person performing work in construction management in excess of \$75,000 for a residential construction project to possess a license.

Proposed law (R.S. 37:2161(A)(2)) lowers the residential construction licensure threshold from \$75,000 to an amount of \$10,000 or more.

Present law (R.S. 37:2161(A)(3)) requires persons in construction management to possess a license when the construction project is in excess of \$7,500 for a home improvement project. Proposed law repeals present law.

Effective Jan. 1, 2024.

(Amends R.S. 37:2150.1(4)(a)(ii) and (15), 2151(B)(5), 2155(G)(1), 2156.1(E), 2157, 2158(A)(15), 2159.1(intro. para.) and (7), and 2161(A)(2); Adds R.S. 37:2156.1(M); Repeals R.S. 37:2150.1(4)(a)(iii), (8), and (9), 2156(C)(5), 2159, and 2161(A)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Lower the licensing threshold for residential structures from \$75,000 to \$10,000.
3. Lower the threshold for licensure of a residential contractor from a cost that exceeds \$75,000 to a cost that equals or exceeds \$10,000.
4. Add that any individual who is domiciled in this state and maintained a home improvement contractor's registration certificate for at least three years prior to the effective date will be exempt for the residential contractor trade examination and issued a residential contractor's license if the individual has maintained compliance and has no violations with the board.
5. Add a licensure exemption for any person performing as a subcontractor who is overseen by a licensed residential contractor, not including electrical, mechanical, plumbing, mold, asbestos, or hazardous material scopes of work.
6. Add that a contractor shall be licensed if the contractor works for an owner of property and change home improvement contractor exemptions to residential contractor exemptions for landscaping, painting or wall covering.
7. Change home improvement contractor and home improvement contracting to residential contractor and residential contracting with respect to certain prohibited acts for property insurance.
8. Lower licensure threshold for residential construction to an amount of \$10,000 or more.
9. Add an effective date.