

Regular Session, 2014

SENATE BILL NO. 627

BY SENATOR MURRAY

WORKERS' COMPENSATION. Exempts certain home improvement contractors who have no employees from the requirements of workers' compensation. (8/1/14)

AN ACT

To amend and reenact R.S. 37:2171.2(B) and 2175.2(C) and to enact R.S. 23:1064, relative to workers' compensation; to provide for certain home improvement contractors; to provide for certain exemptions from the requirements of workers' compensation coverage; to provide for remedies in tort; to provide reservation of certain rights; to provide for forms; to provide for affidavits; to provide for permitting; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1064 is hereby enacted to read as follows:

§1064. Home improvement contractors with no employees; exemption from coverage

A.(1) The provisions of this Chapter shall not apply to any home improvement contractor who is licensed pursuant to the provisions of R.S. 37:2175.2 and who meets all of the following criteria:

(a) Has no employees and employs no independent contractors or subcontractors.

(b) Is not an officer or principal of any corporation, or a member or

1 manager of any limited liability company, or a partner of any partnership or a
2 principal of any firm engaged in the business of home improvement contracting
3 that employs independent contractors or subcontractors or that has any
4 employees other than the home improvement contractor himself.

5 (c) The licensed home improvement contractor has chosen to be exempt
6 from coverage pursuant to this Chapter.

7 (2)(a) Any home improvement contractor who avails himself of the
8 provisions of this Section, who would otherwise be immune from a tort liability
9 claim based upon the exclusive remedies provided for in this Chapter, thereby
10 waives any defense or immunity against any claim in tort which would
11 otherwise be subject to the provisions of this Chapter.

12 (b) Any person who would otherwise be covered under the provisions
13 of this Chapter is hereby authorized to pursue any and all claims against the
14 licensed home improvement contractor in tort where such claims would
15 otherwise be subject to the exclusive remedies provided pursuant to the
16 provisions of this Chapter.

17 B.(1) The provisions of Subsection A of this Section shall not exempt or
18 in any way apply to subcontractors or employees of any person, firm,
19 partnership, or corporation engaged within a project under a principal
20 contractor.

21 (2) The provisions of this Section shall require a Home Improvement
22 Contractors' Coverage Exemption form to be completed and submitted to the
23 Louisiana State Licensing Board for Contractors upon application for licensing.

24 (3) An affidavit reflecting the exemption from coverage shall be
25 completed upon the application for any building permit and submitted to the
26 local permits office, with a copy submitted to the Louisiana State Licensing
27 Board for Contractors, before receiving a local building permit.

28 Section 2. R.S. 37:2171.2(B) and 2175.2(C) are hereby amended and
29 reenacted to read as follows:

§2171.2. Requirements; building permit

* * *

B.(1) In addition to and notwithstanding requirements set forth in Subsection A of this Section, a nonresident commercial, residential, or home improvement contractor applicant shall provide its federal taxpayer identification number to the local building permit official, as well as proof of registration to do business in the state of Louisiana.

(2) In addition to and notwithstanding requirements set forth in Subsection A of this Section, a home improvement contractor who is exempt from the requirements of workers' compensation pursuant to R.S. 23:1064 shall submit an affidavit as is required in R.S. 23:1064.

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§2175.2. Home improvement contracting; registration required

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C. The applicant shall furnish the board proof of general liability insurance in a minimum amount of one hundred thousand dollars, proof of workers' compensation insurance **coverage in compliance with Title 23 of the Louisiana Revised Statutes of 1950**, and proof of registration with the Department of Revenue by providing a certificate of resident/nonresident status.

* * *

The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Mary Dozier O'Brien.

DIGEST

Murray (SB 627)

Proposed law provides that a home improvement contractor who is licensed pursuant to the provisions of R.S. 37:2175.2 and who meets all of the following criteria shall be exempt from the requirements of workers' compensation coverage:

- (1) Have no employees and employs no independent contractors or subcontractors.
- (2) Is not an officer or principal of any corporation, or a member or manager of any limited liability company, or a partner of any partnership or a principal of any firm engaged in home improvement contracting that employs independent contractors or subcontractors or that has any employees other than the home improvement

contractor himself.

- (3) The licensed home improvement contractor has chosen to be exempt from workers' compensation coverage.

Proposed law provides that any home improvement contractor who avails himself of proposed law, who would otherwise be immune from a tort liability claim based upon the exclusive remedies provided for in workers' compensation, thereby waives any defense or immunity against any claim in tort which would otherwise be subject to the provisions of exclusive remedy in workers' compensation.

Proposed law provides that any person, who would otherwise be limited to the provisions of workers' compensation coverage, is authorized to pursue any and all claims against the licensed home improvement contractor in tort where such claims would otherwise be subject to the exclusive remedies of workers' compensation.

Proposed law provides that the provisions of proposed law shall not exempt or in any way apply to subcontractors or employees of any person, firm, partnership, or corporations engaged within a project under a principal contractor.

Proposed law provides that the provisions of proposed law shall require a Home Improvement Contractors' Coverage Exemption form to be completed, and submitted to the Louisiana State Licensing Board for Contractors upon application for licensing.

Proposed law provides that an affidavit reflecting the exemption from coverage shall be completed upon the application for any building permit and submitted to the local permits office, with a copy submitted to the Louisiana State Licensing Board for Contractors, before receiving a local building permit.

Proposed law provides that a home improvement contractor who is exempt from the requirements of workers' compensation must submit an affidavit to the local building permit official in order to obtain a building code permit.

Effective August 1, 2014.

(Amends R.S. 37:2171.2(B) and 2175.2(C); adds R.S. 23:1064)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill

1. Clarifies that a sole practitioner may avail himself of the provisions of proposed law if he practices his home improvement contracting trade through a corporation, a limited liability company, or partnership.
2. Requires that a home improvement contractor who is exempt from the requirements of workers' compensation must submit an affidavit to the local building permit official in order to obtain a building code permit.

Senate Floor Amendments to reengrossed bill

1. Technical Legislative Bureau amendments.