
DIGEST

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HB 643 Original

2016 Regular Session

Carmody

Abstract: Provides for the State Licensing Board for Contractors and regulates contractors.

Proposed law makes technical changes.

Present law provides for definitions. Proposed law amends or removes certain definitions. Proposed law adds definitions of the terms "cost of project", "residential contracting", and "residential structure".

Present law provides for and regulates membership of the State Licensing Bd. for Contractors ("board"). Proposed law allows the board to meet outside of Baton Rouge when the meeting and location have been properly noticed as a public meeting.

Present law requires appointment of a vice chairman and a secretary-treasurer. Proposed law requires the appointment of a vice chairman, secretary, and treasurer.

Present law requires the board to issue a license to the contractor who meets all requirements at its next regularly scheduled meeting. Proposed law removes the timing element required of the board to issue the license.

Present law requires notice of any meeting to be sent to members of the board by either registered mail or telegram. Proposed law requires notice of any meeting to be sent to the members of the board by either certified mail or email.

Present law makes the secretary-treasurer responsible for attesting to the book and register of the board, the receiving and accounting for all money derived from operation of present law, the maintenance of a roster, and keep full and complete minutes of board meetings. Proposed law makes the treasurer responsible for accounting for all money derived from operation of present law. Proposed law makes the secretary responsible for attesting to the book and register of the board. Proposed law makes an administrator of the board responsible for maintenance of a roster. Proposed law makes the secretary responsible for keeping full and complete minutes of board meetings.

Present law provides relative to the receipt of a certification from the Dept. of Environmental Quality ("DEQ") to perform asbestos removal and abatement work. Proposed law provides relative to the receipt of approval from DEQ to perform asbestos removal and abatement work.

Present law requires contractors to make an application to the board indicating the classification of

work that the applicant desires to perform. Proposed law specifies that electrical and mechanical contractors are also subject to this provision of present law. Present law requires the applicant to furnish a financial statement to the board. Proposed law removes a provision of present law making that financial statement confidential and removes a provision of present law stating the purpose of the financial statement requirement. Proposed law further specifies that electrical and mechanical contractors are also subject to this provision of present law.

Present law requires an applicant to designate a qualifying party who shall be the legal representative of the applicant. Present law requires the qualifying party to also submit an application. Proposed law further requires the qualifying party to pass any examination required by the board.

Present law enumerates a list of persons considered as qualifying parties. Proposed law adds any member or manager who was an original organizer of a limited liability company as shown in the articles of organization.

Present law allows the board to waive the required examinations for any person. Proposed law allows the board to exempt any qualifying party from the examination requirements.

Proposed law makes it a violation of present law for anyone to assist a qualifying party in cheating relative to an examination required by the board. Proposed law also qualifies that anyone found in violation of the provision of proposed law is ineligible to serve as a qualifying party for a licensee for a period of 1 year.

Proposed law requires that any waiver authorized pursuant to present law shall be issued prior to August 1, 2016.

Present law provides for exceptions from the provisions of the applicable Chapter. Proposed law provides for exceptions from the provisions of the applicable Part.

Present law enumerates a list of circumstances whereby the board may revoke any license issued hereunder, or suspend the right of the licensee to use the license, or refuse to renew any the license, or issue cease and desist orders to stop work, or debar any person or licensee. Proposed law adds failure to notify the board of any change in corporate name, trade name, or address of the license holder to the enumerated list.

Present law requires the board to approve any additions or changes to an existing license at the next regularly scheduled meeting after the completion of the specified requirements included in present law. Proposed law removes the necessity of approving the additions or changes at the next regularly scheduled meeting.

Present law provides for violations. Proposed law adds the assessment of costs against any person found to be in violation of present law.

Present law establishes the Residential Building Contractors Subcommittee ("subcommittee"). Proposed law renames the subcommittee as the Residential Contractors Subcommittee.

Present law repeatedly references residential building contractors. Proposed law removes all of those references and substitutes the term "residential contractor".

Present law establishes license requirements and qualifications for residential building contractors. Proposed law amends those requirements by requiring the following:

(1) Applying to the board on a board-approved form.

(2) Submitting the following information to the board:

(a) Acceptable proof of workers' compensation and general liability insurances meeting specified standards.

(b) A financial statement meeting specified standards including proof that the applicant shall include a net worth of at least \$10,000. If the applicant does not have a net worth of at least \$10,000, then the applicant can furnish certain specified security to the board in the amount of \$10,000 plus the amount of the negative net worth of the applicant if any exists.

(3) Passing any applicable trade the examination administered required by the board.

Present law requires the subcommittee to exempt any person holding a builders construction license issued by the board prior to February 1, 1996, including the classification of building construction, from examination requirements. Proposed law makes the exemptions permissive rather than mandatory.

Proposed law removes certain provisions of present law regarding administration of examinations by the board. Proposed law removes an outdated sunset provision and references to repealed law.

Proposed law requires the board to set forth a classification as a residential contractor on the license once all requirements for licensure have been met. Proposed law allows the board to establish additional classifications by rule.

Proposed law allows applicants to make changes or additions to their license after paying all fees and meeting all qualifications as required by the board.

Proposed law subjects any changes or additions to a license to board approval.

Proposed law allows the subcommittee to deny licensure of an applicant when the applicant has done any of the following:

(1) Made a material omission or misrepresentation of fact on its application for registration or renewal.

(2) Failed to pay either the required registration fee or renewal fee.

(3) Failed to perform contracts or has performed contracts in an unworkmanlike manner or has failed to complete contracts with no good cause.

(4) Engaged in fraud or bad faith with respect to contracts.

Present law exempts certain persons from the applicable provisions of present law. Proposed law removes persons performing the work of a residential building contractor in areas or municipalities that do not have a permitting procedure from the enumerated list of exemptions. Proposed law adds the following persons to the list:

(1) A homeowner who physically performs residential contracting services on his personal residence.

(2) The state or any of its political subdivisions.

(3) Any person who performs labor or services for a residential contractor for wages or salary and who does not act in the capacity of a residential contractor.

(4) An individual who physically performs residential work on other property he owns when the residential work has a value of less than seven thousand five hundred dollars.

(5) Any person who works exclusively in any of the following areas when the cost of the project does not exceed fifty thousand dollars:

(a) Landscaping.

(b) Interior painting or wall covering.

Present law requires any agreement to perform home improvement contracting services, as defined in the applicable Part, in an amount in excess of \$1,500 to be in writing and adhere to specified requirements. Present law requires any agreement to perform residential contracting services, as defined in the applicable Chapter, in an amount in excess of \$1,500 to be in writing and adhere to specified requirements. Proposed law adds the following to the list of specified requirements for any residential contracting agreement:

(1) Documentation of subcontractor agreements.

(2) Inclusion of the residential contractor license number.

(3) Written documentation of any change or work orders.

Present law establishes an enumerated list of prohibited acts for residential contractors. Proposed law adds working as a residential contractor, as defined in present law, in this state without possession of an active license in accordance with present law. Proposed law clarifies that any home improvement contractor license holder who possesses a certification of registration from the subcommittee as of August 1, 2016 shall be entitled to complete any preexisting contract it has

entered into in excess of \$7,500 without having to obtain a residential contractor license as provided by resent law. However, the home improvement contractor shall be required to obtain a residential contractor's license prior to bidding or entering into any contracts in excess of \$7,500 after August 1, 2016. Proposed law adds failure to notify the subcommittee of a change in corporate name to the list of prohibited acts. Proposed law removes failure to obtain any insurance required by federal law and removes classification of certain violations as a prohibited practice as defined in present law (R.S. 51:1401, et seq.).

Present law authorizes the subcommittee to assess an administrative penalty and regulates those assessments. Proposed law removes present law and deems any violation of present law by a licensed residential contractor to subject the licensee to be liable to the board for a fine not to exceed \$1,000 plus costs and attorney fees for each offense after being notified and offered the opportunity of a hearing. Proposed law provides that if the board brings an action against a licensee and fails to prove its case, then the board is liable to the licensee for the payment of his reasonable litigation expenses as defined in present law (R.S. 49:965.1). Proposed law further specifies that any residential contractor not properly licensed who violates the provisions of present law shall be liable to the board for a fine not to exceed 10% of the total cost of the project in violation plus costs and attorney fees for each offense after being notified and offered the opportunity of a hearing

Present law clarifies that any home improvement contractor who fails to obtain a certificate of registration as provided by present law shall not be entitled to certain claims or relief. Proposed law clarifies that any residential contractor who is not properly licensed shall not be entitled to certain claims or relief.

Proposed law repeals present law (R.S. 37:2171, 2175.2, and 2175.5).

(Amends R.S. 37:2150.1(2), (4)(a), (4.1), and (11), 2152(B)(3), (4)(b) and (c), 2154(A)(2) and (5), 2155(A)-(D), 2156(G), 2156.1(A)(intro. par.), (C), (D)(1)(intro. par.) and (c) and (2), 2157(A)(intro. para.), 2159(C), 2162(L), 2165(A), 2167, 2170(A)(2), 2171.1, 2171.2(B), 2175.1(A)(intro. para.), (1), (2), (4)(a), (7), (B), and (D), 2175.3, 2175.4, and 2175.6; Adds R.S. 37:2150.1(14)-(16), 2156.1(D)(4) and (5) and (M)(4), 2158(A)(12), 2167.2, 2167.3, 2170(A)(4)-(7); Repeals R.S. 37:2150.1(7) and (8), 2171, 2175.2, and 2175.5)