

2016 Regular Session

SENATE BILL NO. 336

BY SENATOR MARTINY

CONTRACTORS. Provides relative to the State Licensing Board for Contractors. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 37:2150.1(2), (4)(a), (5), (6), (7), (8)(a), (9), (10), (11), (12) and

3 (13), 2152(B)(3) and (4), 2154(A)(2) and (5), 2155(A), (B), (C), and (D), 2156 (G),

4 the introductory paragraph of 2156.1(A), 2156.1(C), the introductory paragraph of

5 (D)(1), (D)(1)(c), and (D)(2), the introductory paragraph of 2157(A), 2159(C),

6 2162(L), 2167, 2170(A)(2), 2171.1, 2171.2(B), the introductory paragraph of

7 2175.1(A), 2175.1(A)(1), (2), (4)(a), (7), (B) and (D), 2175.3(A)(1), (2), (3), (5), (6),

8 (7), (8), (9) and (10) and (B), 2175.4, and 2175.6 and to enact R.S. 37:2150.1(14),

9 (15) and (16)(a), 2156.1(D)(4) and (5) and (M)(4), 2158(A)(12), 2167.2, 2167.3, and

10 2170(A)(4), (5), (6), and (7) and to repeal R.S. 37:2171, 2175.2, 2175.3(11), and

11 2175.5, relative to the State Licensing Board for Contractors; to provide certain

12 definitions, terms, procedures, conditions, and effects; to provide relative to board

13 composition and procedure; to provide relative to license issuance; to provide certain

14 requirements and exceptions; to provide relative to residential contracting; to provide

15 certain sanctions and penalties; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 37:2150.1(2), (4)(a), (5), (6), (7), (8)(a), (9), (10), (11), (12) and (13),

1 2152(B)(3) and (4), 2154(A)(2) and (5), 2155(A), (B), (C), and (D), 2156 (G), the
 2 introductory paragraph of 2156.1(A), 2156.1(C), the introductory paragraph of (D)(1),
 3 (D)(1)(c), and (D)(2), the introductory paragraph of 2157(A), 2159(C), 2162(L), 2167,
 4 2170(A)(2), 2171.1, 2171.2(B), the introductory paragraph of 2175.1(A), 2175.1(A)(1), (2),
 5 (4)(a), (7), (B) and (D), 2175.3(A)(1), (2), (3), (5), (6), (7), (8), (9) and (10) and (B), 2175.4,
 6 and 2175.6 are hereby amended and reenacted and R.S. 37:2150.1(14), (15) and (16)(a),
 7 2156.1(D)(4) and (5) and (M)(4), 2158(A)(12), 2167.2, 2167.3, and 2170(A)(4), (5), (6), and
 8 (7) are hereby enacted to read as follows:

9 §2150.1. Definitions

10 As used in this Chapter, the following words and phrases shall be defined as
 11 follows:

12 * * *

13 (2) "Commercial purposes" means any construction project **except**
 14 **residential structures with four or less dwelling units.** ~~other than residential~~
 15 ~~homes, a single residential duplex, a single residential triplex, or a single residential~~
 16 ~~fourplex. A construction project consisting of residential homes where the contractor~~
 17 ~~has a single contract for the construction of more than two homes within the same~~
 18 ~~subdivision shall be deemed a commercial undertaking.~~

19 * * *

20 (4)(a) "Contractor" means any person who undertakes to, attempts to, or
 21 submits a price or bid or offers to construct, supervise, superintend, oversee, direct,
 22 or in any manner assume charge of the construction, alteration, repair, improvement,
 23 movement, demolition, putting up, tearing down, or furnishing labor, or furnishing
 24 labor together with material or equipment, or installing the same for any building,
 25 highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure,
 26 project development, housing, or housing development, improvement, or any other
 27 construction undertaking for which the entire cost of same is fifty thousand dollars
 28 or more when such property is to be used for commercial purposes. ~~other than a~~
 29 ~~single residential duplex, a single residential triplex, or a single residential fourplex.~~

1 ~~A construction project which consists of construction of more than two single~~
2 ~~residential homes, or more than one single residential duplex, triplex, or fourplex,~~
3 ~~shall be deemed to be a commercial undertaking.~~

4 * * *

5 **(5) "Cost of project" means the value of all labor, materials,**
6 **subcontractors, overhead, and supervision. With respect to modular housing,**
7 **"cost of project" shall not include the cost of the component parts of the**
8 **modular home in the condition each part leaves the factory, in accordance with**
9 **R.S. 40:1730.71.**

10 ~~(4.1)~~**(6)** "Electrical contractor" means any person who undertakes to, attempts
11 to, or submits a price or bid or offers to construct, supervise, superintend, oversee,
12 direct, or in any manner assume charge of the construction, alteration, repair,
13 improvement, movement, demolition, putting up, tearing down, or furnishing labor
14 together with material and equipment, or installing the same for the wiring, fixtures,
15 or appliances for the supply of electricity to, **or use of electricity within,** any
16 residential, commercial, or other project, when the cost of the undertaking exceeds
17 the sum of ten thousand dollars. This Paragraph shall not be deemed or construed to
18 limit the authority of a contractor, general contractor, or residential building
19 contractor, as those terms are defined in this Section, nor to require such individuals
20 to become an electrical contractor.

21 ~~(5)~~**(7)** "Executive director" means the person appointed by the board to serve
22 as the chief operating officer in connection with the day-to-day operation of the
23 board's business.

24 ~~(6)(a)~~**(8)(a)** "General contractor" means a person who contracts directly with
25 the owner. The term "general contractor" shall include the term "primary contractor"
26 and wherever used in this Chapter or in regulations promulgated thereunder "primary
27 contractor" shall mean "general contractor".

28 * * *

29 ~~(7) "Home improvement contracting" means the reconstruction, alteration,~~

1 ~~renovation, repair, modernization, conversion, improvement, removal, or demolition,~~
2 ~~or the construction of an addition to any pre-existing owner-occupied building which~~
3 ~~building is used or designed to be used as a residence or dwelling unit, or to~~
4 ~~structures which are adjacent to such residence or building. "Home improvement~~
5 ~~contracting" shall not include services rendered gratuitously.~~

6 ~~(8) "Home improvement contractor" means any person, including a~~
7 ~~contractor or subcontractor, who undertakes or attempts to, or submits a price or bid~~
8 ~~on any home improvement contracting project.~~

9 ~~(8.1)~~**(9)** "Mechanical contractor" means any person who undertakes to,
10 attempts to, or submits a price or bid or offers to construct, supervise, superintend,
11 oversee, direct, or in any manner assume charge of the construction, alteration,
12 repair, improvement, movement, demolition, putting up, tearing down, or furnishing
13 labor, or furnishing labor together with material and equipment, or installing the
14 same for the construction, installation, maintenance, testing, and repair of air
15 conditioning, refrigeration, heating systems, and plumbing for all residential,
16 commercial, and industrial applications as well as ventilation systems, mechanical
17 work controls, boilers and other pressure vessels, steam and hot water systems and
18 piping, gas piping and fuel storage, and chilled water and condensing water systems
19 and piping, including but not limited to any type of industrial process piping and
20 related valves, fittings, and components, when the cost of the undertaking exceeds
21 the sum of ten thousand dollars. This Paragraph shall not be deemed or construed to
22 limit the authority of a contractor, general contractor, or residential building
23 contractor, as those terms are defined in this Section, nor to require such individuals
24 to become a mechanical contractor.

25 ~~(9)~~**(10)** "Person" means any individual, firm, partnership, association,
26 cooperative, corporation, limited liability company, limited liability partnership, or
27 any other entity recognized by Louisiana law; and whether or not acting as a
28 principal, trustee, fiduciary, receiver, or as any other kind of legal or personal
29 representative, or as a successor in interest, assignee, agent, factor, servant,

1 employee, director, officer, or any other representative of such person; or any state
2 or local governing authority or political subdivision performing a new construction
3 project which exceeds the contract limits provided in R.S. 38:2212 and which does
4 not constitute regular maintenance of the public facility or facilities which it has been
5 authorized to maintain.

6 ~~(10)~~**(11)** "Qualifying party" means a natural person designated by the
7 contractor to represent the contractor for the purpose of complying with the
8 provisions of this Chapter including without limitation meeting the requirements for
9 the initial license and/or any continuation thereof.

10 ~~(11)~~**(12)** "Residential ~~building~~ contractor" means any corporation,
11 partnership, or individual who **performs residential contracting. The term**
12 **"residential contractor" shall include all contractors, subcontractors, architects,**
13 **and engineers who receive an additional fee for the employment or director of**
14 **labor, or any other work beyond the normal architectural or engineering**
15 **services. The term "residential contractor" shall not include the manufactured**
16 **housing industry of those persons engaged in building residential structures that**
17 ~~constructs a fixed building or structure~~
18 ~~for sale for use by another as a residence or who, for a price, commission, fee, wage,~~
19 ~~or other compensation, undertakes or offers to undertake the construction or~~
20 ~~superintending of the construction of any building or structure which is not more~~
21 ~~than three floors in height, to be used by another as a residence, when the cost of the~~
22 ~~undertaking exceeds seventy-five thousand dollars. The term "residential building~~
23 ~~contractor" includes all contractors, subcontractors, architects, and engineers who~~
24 ~~receive an additional fee for the employment or direction of labor, or any other work~~
25 ~~beyond the normal architectural or engineering services. "Residential building~~
26 ~~contractor" also means any person performing home improvement contracting as~~
27 ~~provided for in Paragraph (7) of this Section when the cost of the undertaking~~
28 ~~exceeds seventy-five thousand dollars. It shall not include the manufactured housing~~
29 ~~industry or those persons engaged in building residential structures that are mounted~~

1 on metal chassis and wheels.

2 **(13) "Residential contracting" means either of the following:**

3 **(a) Undertaking or offering to undertake the construction or supervising**
4 **the construction of a residential structure when the cost of the project exceeds**
5 **fifty thousand dollars and is not rendered gratuitously.**

6 **(b) Undertaking or offering to undertake any of the following types of**
7 **work on a residential structure or a structure adjacent thereto, for an amount**
8 **that exceeds seven thousand five hundred dollars, including labor, materials,**
9 **and indirect costs, and is not rendered gratuitously:**

10 **(i) Pile driving.**

11 **(ii) Foundations.**

12 **(iii) Framing.**

13 **(iv) Roofing.**

14 **(v) Masonry or stucco.**

15 **(vi) Swimming pools.**

16 **(vii) Home improvement.**

17 **(14) "Residential structure" means any building or structure that shall**
18 **be used as a residence or an accessory building and is not more than three floors**
19 **in height or more than four dwelling units.**

20 ~~(12)~~**(15)** "Subcontract" means the entire cost of that part of the contract which
21 is performed by the subcontractor.

22 ~~(13)~~~~(a)~~**(16)(a)** "Subcontractor" means a person who contracts directly with
23 the primary contractor for the performance of a part of the principal contract or with
24 another contractor for the performance of a part of the principal contract.

25 * * *

26 §2152. Initial appointments; oaths; panel of names; domicile; officer; bond

27 * * *

28 B. * * *

29 (3) After the board shall have qualified, it shall meet in the city of Baton

1 Rouge which place is hereby fixed as the domicile of the board. **The board may**
2 **hold meetings outside of Baton Rouge after such location has been properly**
3 **noticed as a public meeting.**

4 (4)(a) The governor shall designate one member of the board to serve as
5 chairman.

6 (b) The members shall, by a majority vote, designate a member as vice
7 chairman, ~~and a member as secretary-treasurer,~~ **and a member as treasurer.**

8 (c) The ~~secretary-treasurer~~ and any administrative employee who shall handle
9 the funds of the board shall furnish bond, in such amount as is fixed by the board, of
10 a surety company qualified to do and doing business in the state of Louisiana. The
11 bond shall be conditioned upon the faithful performance of the duties of office and
12 of the proper accounting of funds coming into his possession.

13 * * *

14 §2154. Meetings; compensation; quorum; license application and issuance
15 procedure

16 A. * * *

17 (2) The board may receive applications for licenses under this Chapter at any
18 time. Upon initial application, the license of a contractor domiciled in the state of
19 Louisiana shall be issued after all requirements have been met and approved by the
20 board ~~at its next regularly scheduled meeting.~~ Upon the initial application of a
21 contractor domiciled outside of the state of Louisiana, except as provided herein, a
22 period of at least sixty days must elapse between the date the application is filed and
23 the license is issued. The executive director shall compile a list of all applicants for
24 licensure that are to be considered at a board meeting and mail such list to each board
25 member at least ten days prior to the meeting. The executive director shall certify
26 that the list contains only the names of applicants who have fulfilled all licensure
27 requirements and the board shall only consider applications on such list.

28 * * *

29 (5) ~~All meetings~~ **Meetings** of the board shall be held in the city of Baton

1 Rouge, Louisiana, or in other locations as determined by the board unless
 2 otherwise provided for in the bylaws of the board. Before a special meeting may be
 3 held, notice thereof stating time, place, and purpose of said meeting shall be sent by
 4 the chairman or vice chairman of the board by ~~registered~~ **certified** mail or ~~telegram~~
 5 **email** to the members thereof, addressed to their mailing addresses on file with the
 6 board, at least three days before the date of the meeting. No board meeting shall be
 7 recessed from one calendar day to another.

8 * * *

9 §2155. Books and records; evidence; reports

10 A. The ~~secretary-treasurer~~ shall be responsible for receiving and accounting
 11 for all money derived from the operation of this Chapter. He shall register all
 12 applicants for licenses, showing for each the date of application, the name,
 13 qualifications, place of business, place of residence, and whether license was granted
 14 or refused and the date on which such license was granted or refused.

15 B. The book and register of this board shall be prima facie evidence of all
 16 matters recorded therein; and a certified copy of such book or register, or any part
 17 thereof, attested by the ~~secretary-treasurer~~, shall be received in evidence in all courts
 18 of this state in lieu of the original.

19 C. The ~~secretary-treasurer~~ thereof **administrator** shall keep a roster, showing
 20 the names and places of business of all licensed contractors, ~~and shall file same with~~
 21 ~~the secretary of state on or before the first day of March of each year.~~ **The roster**
 22 **shall be maintained at the board's office and on its official website.**

23 D. The ~~secretary-treasurer~~ of the board shall keep full and complete minutes
 24 of each board meeting whether regular or special, including full information as to
 25 each application for license considered and the board's action thereon as well as all
 26 expenditures of the board that are approved. These board minutes shall be typed and
 27 attested to by the ~~secretary-treasurer~~ and copies thereof shall be made available to
 28 each board member and to the public upon the adoption of the minutes at the next
 29 scheduled meeting of the board ~~within a period of twenty-one days after the~~

1 ~~adjournment of said meeting.~~

2 * * *

3 §2156. Unexpired licenses; fees; renewals

4 * * *

5 G. No license shall be issued for the subclassification of asbestos removal
6 and abatement under the major classification of hazardous materials as provided in
7 R.S. 37:2156.2(VIII) until the applicant furnishes satisfactory evidence that he or his
8 qualifying party has received ~~certification~~ **approval** from the Department of
9 Environmental Quality to perform asbestos removal and abatement work.

10 §2156.1. Requirements for issuance of a license

11 A. All persons who desire to become licensed as a contractor, **electrical**
12 **contractor, or mechanical contractor** shall make application to the board on a form
13 adopted by the board and shall state the classification of work the applicant desires
14 to perform from a list of major classifications as follows:

15 * * *

16 C. ~~The applicant~~ **All persons who desire to become licensed as a**
17 **contractor, electrical contractor, or mechanical contractor** shall furnish the board
18 with a financial statement, current to within twelve months of the date of filing,
19 prepared by an independent auditor and signed by the applicant and auditor before
20 a notary public, stating the assets of the applicant, ~~to be used by the board to~~
21 ~~determine the financial responsibility of the applicant to perform work on a~~
22 ~~construction undertaking, the entire cost of which is fifty thousand dollars or more.~~
23 Such assets shall include a net worth of at least ten thousand dollars. An applicant
24 without the net worth required herein may furnish the board a bond, letter of credit,
25 or other security acceptable to the board in the amount of such net worth requirement
26 plus the amount of the applicant's negative net worth if any, and the furnishing of
27 such bond, letter of credit, or other security shall be deemed satisfaction of such net
28 worth requirement for all purposes. ~~The financial statement and any information~~
29 ~~contained therein, as well as any other financial information required to be submitted~~

1 ~~by a contractor, shall be confidential and not subject to the provisions of R.S. 44:1~~
2 ~~through 37, inclusive.~~ Nothing contained in this Subsection shall be construed to
3 require a licensed contractor to provide a financial statement in connection with the
4 renewal of an existing license.

5 D.(1) The applicant for licensure shall designate a qualifying party who shall
6 be the legal representative for the contractor relative to the provisions of this
7 Chapter. The designated qualifying party shall complete an application supplied by
8 the board **and pass any examination required by the board.** The board may deny
9 approval of the qualifying party for good cause, which may include the ability of the
10 proposed principal owner or owners, principal shareholder or shareholders, or
11 qualifying party to engage in the business of contracting as demonstrated by his prior
12 contracting business experience. Evidence which may be considered by the board
13 shall be limited to any legal proceedings against the qualifying party or businesses
14 where the qualifying party was in a position of control at the time a problem arose
15 and the ultimate disposition of such proceedings, any financial history of
16 bankruptcies, unpaid judgments, insolvencies, or any similar evidence. When the
17 qualifying party terminates employment with the licensee, the board shall be notified
18 in writing within thirty days of the disassociation and another qualifying party must
19 qualify within sixty days. The qualifying party or parties are:

20 * * *

21 (c) Any stockholder of a corporation who was an original incorporator or
22 original stockholder as shown in the articles of incorporation. **Any member or**
23 **manager who was an original organizer of a limited liability company pursuant**
24 **to the articles of organization.**

25 (2) Upon good showing, the board may ~~waive~~ **exempt any qualifying party**
26 **from** the required examinations ~~for any person.~~

27 * * *

28 **(4) No person shall provide copies of any portion of the examination**
29 **given by or from the board to any individual for the purpose of assisting an**

1 examinee to subvert, or attempt to subvert, any examination given by or for the
2 board.

3 (5) Any person who violates the provisions of Paragraphs (3) and (4) of
4 this Subsection shall be ineligible to serve as a qualifying party for a licensee for
5 a period of one year.

6 * * *

7 M. The board shall waive the examination required and grant a mechanical
8 contractor or an electrical contractor license to any person working in the electrical
9 or mechanical construction industry who meets at least one of the following
10 requirements:

11 * * *

12 (4) Any waiver authorized pursuant to the provisions of this Subsection
13 shall be issued prior to August 1, 2016.

14 * * *

15 §2157. Exemptions

16 A. There are excepted from the provisions of this ~~Chapter~~ Part:

17 * * *

18 §2158. Revocation, suspension, and renewal of licenses; issuance of cease and desist
19 orders; debarment; criminal penalty

20 A. The board may revoke any license issued hereunder, or suspend the right
21 of the licensee to use such license, or refuse to renew any such license, or issue cease
22 and desist orders to stop work, or debar any person or licensee, for any of the
23 following causes:

24 * * *

25 (12) Failing to notify the board of any change in corporate name, trade
26 name, or address of the licensee.

27 * * *

28 §2159. Classification; bidding and performing work within a classification

29 * * *

1 C. After classification as above provided for, the licensee may apply for and
 2 receive additions to or changes in his classification by making application therefor,
 3 successfully completing the written examination, and paying the required fees.
 4 Additions or changes to an existing license shall become effective after completion
 5 of the above requirements, and upon board approval ~~at the next regularly scheduled~~
 6 ~~meeting.~~

7 * * *

8 §2162. Violations; civil penalty

9 * * *

10 L. In addition to all other authority granted to the board under the provisions
 11 of this Chapter, the board shall have the authority to cause to be issued to any person
 12 who is alleged to have violated any of the provisions of this Chapter a citation setting
 13 forth the nature of the alleged violation, and further providing to that person the
 14 option of either pleading no contest to the charge and paying to the board a fine **and**
 15 **costs** prescribed by any provision of this Chapter or appearing at an administrative
 16 hearing to be conducted by the board as to the alleged violation. Such citations may
 17 be issued by any authorized employee of the board, and may be issued either in
 18 person or via the United States Postal Service, postage prepaid and properly
 19 addressed. This Subsection shall not be applicable to any criminal enforcement
 20 action brought under the provisions of this Chapter.

21 * * *

22 ~~§2167. Licensure required; qualifications; examination; waivers~~ **Requirements for**
 23 **issuance of residential contractor licenses**

24 A. ~~No person shall work as a residential building contractor, as defined in this~~
 25 ~~Chapter, in this state unless he holds an active license in accordance with the~~
 26 ~~provisions of this Chapter.~~ **Any person who desires to become licensed as a**
 27 **residential contractor shall perform all of the following:**

28 **(1) Make application to the board on a form adopted by the board.**

29 **(2) Submit all of the following documentation to the board:**

1 B. In order to obtain a license as a residential building contractor an applicant
2 shall demonstrate to the subcommittee that he:

3 (1) ~~(a)~~ Has submitted certificates evidencing **Acceptable proof of** workers'
4 compensation coverage in compliance with Title 23 of the Louisiana Revised
5 Statutes of 1950, and **general** liability insurance in a minimum amount of one
6 hundred thousand dollars or liability protection provided by a liability trust fund as
7 authorized by R.S. 22:46(9)(d) in a minimum amount of one hundred thousand
8 dollars.

9 **(b) A financial statement, current to within twelve months of the date of**
10 **filing, prepared by an independent auditor and signed by the applicant and**
11 **auditor before a notary public, stating the assets of the applicant. Such assets**
12 **shall include a net worth of at least ten thousand dollars. An applicant without**
13 **the net worth required herein may furnish the board a bond, letter of credit, or**
14 **other security acceptable to the board in the amount of such net worth**
15 **requirements plus the amount of the applicant's negative net worth, if any, and**
16 **the furnishing of such bond, letter of credit, or other security shall be deemed**
17 **satisfaction of such net worth requirements for all purposes.**

18 ~~(2)~~**(3)** Has passed **Passed** the examination administered **business and law**
19 **examination and all applicable trade examinations required** by the State
20 Licensing Board for Contractors.

21 (3) Has submitted a financial statement prepared by an independent auditor
22 and signed by the applicant and auditor before a notary public, stating that the
23 applicant has a net worth of at least ten thousand dollars.

24 C. The State Licensing Board for Contractors shall administer an examination
25 for licensure of residential building contractors at such times and places as it shall
26 determine in accordance with the testing procedures of the board. The examination
27 shall test the applicant's knowledge of such subjects as the subcommittee may
28 consider useful in determining the applicant's fitness to be a licensed residential
29 building contractor. The subcommittee shall determine the criteria for satisfactory

1 performance.

2 ~~D. B.~~ The subcommittee shall ~~waive~~ may exempt any person working in
3 the residential building industry who holds a builders construction license
4 issued by the State Licensing Board for Contractors prior to February 1, 1996,
5 with the classification of building construction from the examination and grant
6 such person a residential building contractor's license, ~~to any person working in the~~
7 residential building industry who meets at least one of the following requirements:

8 (1) Holds a builder construction license issued by the State Licensing Board
9 for Contractors prior to February 1, 1996.

10 (2) to (4) Terminated by Acts 1997, No. 925, §1, effective January 1, 1998.

11 E. The provisions of Paragraphs D(2), (3), and (4) shall terminate on January
12 1, 1998.

13 C. Any home improvement contractor license holder who possesses a
14 certificate of registration from the subcommittee as of August 1, 2016, shall be
15 entitled to complete any preexisting contract that he has entered into in excess
16 of seven thousand five hundred dollars without having to obtain a residential
17 contractor's license as provided by this Chapter. However, such home
18 improvement contractor shall be required to obtain a residential contractor's
19 license prior to bidding or entering into any contracts in excess of seven
20 thousand five hundred dollars after August 1, 2016.

21 * * *

22 §2167.2. Residential classification; bidding and performing work within a
23 classification

24 A. The board, before issuing a license to any residential contractor, shall
25 set forth the residential contractor's classification on such license, according to
26 the classification requested by the contractor and for which he has completed
27 all of the requirements of the board. The board may adopt rules in accordance
28 with the Administrative Procedure Act setting forth additional specialty
29 classifications and the requirements to obtain such classification.

1 **B. The licensee shall be permitted to bid or perform any type or types of**
2 **work included in the classification under which his license was issued.**

3 **C. The licensee may apply for and receive additions to or changes in his**
4 **classification by making application to the board, successfully completing the**
5 **written examination, and paying the required fees. Additions or changes to an**
6 **existing license shall become effective after compliance with the provisions of**
7 **this Subsection and upon board approval.**

8 **§2167.3. Denial of licensure or renewal**

9 **The subcommittee may deny licensure or renewal of a license upon a**
10 **finding by the subcommittee that the applicant has committed one or more of**
11 **the following acts:**

12 **(1) Made material omission or misrepresentations of fact on its**
13 **application for registration or renewal.**

14 **(2) Failed to pay either the licensing fee or renewal fee.**

15 **(3) Failed consistently to perform contracts, performed contracts in an**
16 **unworkmanlike manner, failed to complete contracts with no good cause, or**
17 **engaged in fraud or bad faith with respect to such contracts.**

18 * * *

19 §2170. Exceptions

20 A. There are excepted from the provisions of this Chapter:

21 * * *

22 ~~(2) Persons performing the work of a residential building contractor in areas~~
23 ~~or municipalities that do not have a permitting procedure.~~ **A homeowner who**
24 **physically performs residential contracting services on his personal residence.**

25 * * *

26 **(4) The state or any of its political subdivisions.**

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

1 (6) An individual who physically performs residential work on other
2 property owned by him when the residential work has a value of less than seven
3 thousand five hundred dollars.

4 (7) Any person who works exclusively in landscaping and interior
5 painting or wall covering, where the costs of the project does not exceed fifty
6 thousand dollars.

7 * * *

8 §2171.1. Inspection of local building permits

9 Each month the board or its staff shall inspect the list of residential building
10 permits issued by each local building permit official in this state to ensure that no
11 person is working as a residential ~~building~~ contractor without an active license.

12 §2171.2. Requirements; building permit

13 * * *

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

19 * * *

20 PART II. ~~HOME IMPROVEMENT~~ RESIDENTIAL CONTRACTING

21 §2175.1. ~~Home improvement~~ Residential contracting; written contract required;
22 right to cancel

23 A. Every agreement to perform ~~home improvement~~ residential contracting
24 services, as defined by this Part Chapter, in an amount in excess of one thousand
25 five hundred dollars; ~~but not in excess of seventy-five thousand dollars;~~ shall be in
26 writing and shall include the following documents and information:

27 (1) The complete agreement between the owner and the contractor and any
28 subcontractor and a clear description of any other documents which are or shall be
29 incorporated into the agreement.

1 (2) The full names, addresses, and the ~~registration~~ **license** number of the
2 ~~home improvement~~ **residential** contractor.

3 * * *

4 (4)(a) The total amount agreed to be paid for the work to be performed under
5 the contract, ~~including all~~ **Any** change orders and work orders **shall be in writing**.

6 * * *

7 (7) If the contract is for goods or services in connection with the repair or
8 replacement of a roof system to be paid from the proceeds of a property or casualty
9 insurance policy, a fully completed form in duplicate, captioned "NOTICE OF
10 CANCELLATION", which shall be attached to the contract but easily detachable,
11 and which shall contain, in boldface type of a minimum size of ten points, the
12 following statement:

13 "NOTICE OF CANCELLATION

14 If your insurer denies all or any part of your claim to pay for goods and
15 services in connection with the repair or replacement of a roof system to be provided
16 under this contract, you may cancel the contract by mailing or delivering a signed
17 and dated copy of this cancellation notice or any other written notice to (name of
18 ~~home improvement~~ **residential** contractor) at (address of contractor's place of
19 business) at any time within seventy-two hours after you have been notified that your
20 claim has been denied. If you cancel, any payments made by you under the contract,
21 except for certain emergency work already performed by the contractor, shall be
22 returned to you within ten business days following receipt by the contractor of your
23 cancellation notice.

24 I HEREBY CANCEL THIS TRANSACTION

25 _____

26 (Date)

27 _____

28 (Insured's Signature)"

29

1 B. At the time of signing, the owner shall be furnished with a copy of the
 2 contract signed by both the ~~home improvement~~ **residential** contractor and the owner.
 3 No work shall begin prior to the signing of the contract and transmittal to the owner
 4 of a copy of the contract.

* * *

6 D.(1) A person who has entered into a written contract with a ~~home~~
 7 **improvement residential** contractor to provide goods or services in connection with
 8 the repair or replacement of a roof system to be paid from the proceeds of a property
 9 or casualty insurance policy may cancel the contract within seventy-two hours after
 10 the insured party has been notified by the insurer that all or any part of the claim has
 11 been denied. Cancellation shall be evidenced by the insured party giving written
 12 notice of cancellation to the ~~home improvement~~ **residential** contractor at the address
 13 stated in the contract. Notice of cancellation, if given by mail, shall be by certified
 14 mail, return receipt requested, and shall be effective upon deposit into the United
 15 States mail, postage prepaid, and properly addressed to the ~~home improvement~~
 16 **residential** contractor. Notice of cancellation need not take a particular form and
 17 shall be sufficient if it indicates, by any form of written expression, the intention of
 18 the insured party not to be bound by the contract.

19 (2) Within ten days after a contract referred to in this Subsection has been
 20 cancelled, the ~~home improvement~~ **residential** contractor shall tender to the owner
 21 or possessor of the residential real estate any payments, partial payments, or deposits
 22 made by the insured party and any note or other evidence of indebtedness. If,
 23 however, the ~~home improvement~~ **residential** contractor has performed any
 24 emergency services, acknowledged by the insured in writing to be necessary to
 25 prevent damage to the premises, the ~~home improvement~~ **residential** contractor shall
 26 be entitled to the reasonable value of such services.

* * *

28 §2175.3. ~~Home improvement~~ **Residential** contracting; prohibited acts; violations

29 A. The following acts are prohibited by persons performing ~~home~~

1 improvement residential contracting services:

2 ~~(1) Operating without a certificate of registration issued by the subcommittee.~~

3 **Working as a residential contractor in this state without possessing an active**
4 **license in accordance with the provisions of this Chapter.**

5 (2) Abandoning or failing to perform, without justification, any contract or
6 project engaged in or undertaken by a ~~registered home improvement~~ **licensed**
7 **residential** contractor, or deviating from or disregarding plans or specifications in
8 any material respect without the consent of the owner.

9 (3) Failing to credit the owner any payment they have made to the ~~home~~
10 ~~improvement~~ **residential** contractor in connection with a ~~home improvement~~
11 ~~contracting transaction~~ **residential contracting services.**

12 * * *

13 ~~(5) Violation of the~~ **Violating the applicable** building code of the state or
14 municipality.

15 (6) Failing to notify the subcommittee of any change of **corporate name,**
16 trade name, or address, or conducting a home improvement contracting business in
17 any name other than the one in which the home improvement contractor is registered.

18 **(7) Performing residential contracting services in any name other than**
19 **the one in which the residential contractor is licensed.**

20 ~~(7)~~**(8)** Failing to pay for materials or services rendered in connection with his
21 operating as a ~~home improvement~~ **residential** contractor where he has received
22 sufficient funds as payment for the particular construction work, project, or operation
23 for which the services or material were rendered or purchased.

24 ~~(8)~~**(9)** Making a false representation that the person is a state licensed general
25 contractor.

26 (9) Failing to possess any insurance required by federal law.

27 (10) Advertising or promising to pay or rebate all or any portion of an
28 applicable insurance deductible as an inducement to the sale of goods or services in
29 connection with the repair or replacement of a roof system. For the purposes of this

1 Section, a promise to pay or rebate the insurance deductible shall include granting
 2 any allowance or offering any discount against the fees to be charged or paying the
 3 insured party any form of compensation for any reason, including but not limited to
 4 permitting the ~~home improvement~~ **residential** contractor to display a sign or any
 5 other type of advertisement at the insured party's premises, or paying an insured
 6 party for providing a letter of referral or recommendation. If a ~~home improvement~~
 7 **residential** contractor violates this Paragraph:

8 (a) The insurer to whom the insured party tendered the claim shall not be
 9 obligated to consider the estimate prepared by the ~~home improvement~~ **residential**
 10 contractor.

11 (b) The insured party or the applicable insurer may bring an action against
 12 the ~~home improvement~~ **residential** contractor in a court of competent jurisdiction for
 13 damages sustained as a result of the ~~home improvement~~ **residential** contractor's
 14 violation.

15 * * *

16 B.~~(1)~~ Violations of this Section shall subject the violator to the administrative
 17 sanctions as prescribed in this Part.

18 ~~(2) A violation of Paragraph (A)(10) of this Section shall constitute a~~
 19 ~~prohibited practice under the Unfair Trade Practices and Consumer Protection Law,~~
 20 ~~R.S. 51:1401 et seq., and shall be subject to the enforcement provisions of that~~
 21 ~~Chapter.~~

22 §2175.4. Home improvement **Residential** contracting; **administrative violations;**
 23 **civil** penalties

24 A. If the subcommittee determines that any registrant is liable for violation
 25 **of residential contractor has violated** any of the provisions contained in this Part,
 26 the subcommittee may suspend the ~~registrant's certificate of registration~~ **residential**
 27 **contractor's license** for such period of time as shall be determined by the
 28 subcommittee, revoke the ~~registrant's certificate of registration~~ **residential**
 29 **contractor's license**, or reprimand the ~~registrant~~ **residential contractor**.

1 ~~by the subcommittee~~ **be licensed** in order to have properly entered into such a
2 contract.

3 Section 2. R.S. 37:2171, 2175.2, 2175.3(11), and 2175.5 are hereby repealed.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 336 Engrossed

2016 Regular Session

Martiny

Present law provides relative to the State Licensing Board for Contractors ("board") and the regulations of contractors in the state.

Present law provides for duties of the board and its membership.

Proposed law allows the board to, with proper notice, hold meetings outside of Baton Rouge after such location has been properly noticed as a public meeting.

Present law defines the following terms: "commercial purposes", "contractor", "electrical contractor", "home improvement contracting", "home improvement contractor", "residential building contractor".

Proposed law redefines the term "commercial purposes" as any construction project except residential structures with four or less dwelling units.

Proposed law redefines the term "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, or furnishing labor, or furnishing labor together with material or equipment, or installing the same for 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 of same is \$50,000 or more when such property is to be used for commercial purposes.

Proposed law redefines "electrical 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, or furnishing labor together with material and equipment, or installing the same for the wiring, fixtures, or appliances for the supply of electricity to, or use of electricity within, any residential, commercial, or other project, when the cost of the undertaking exceeds the sum of \$10,000.

Proposed law redefines "residential contractor" as any corporation, partnership, or individual who performs residential contracting. The term "residential contractor" shall include all contractors, subcontractors, architects, and engineers who receive an additional fee for the employment or director of labor, or any other work beyond the normal architectural or engineering services. The term "residential contractor" shall not include the manufactured housing industry or those persons engaged in building residential structures that are mounted on metal chassis or wheels.

Proposed law removes from present law the definitions of "home improvement contracting" and "home improvement contractor".

Proposed law defines the term "cost of project" as the value of all labor, materials,

subcontractors, overhead, and supervision.

Proposed law defines the term "residential contracting" as either of the following:

- (1) Undertaking or offering to undertake the construction or supervising the construction of a residential structure when the cost of the project exceeds \$50,000 and is not rendered gratuitously.
- (2) Undertaking or offering to undertake certain types of work on a residential structure or a structure adjacent thereto, for an amount that exceeds \$7,500, including labor, materials, and indirect costs, and is not rendered gratuitously.

Proposed law incorporates into the definition of residential contracting home improvement contracting and reflects such inclusion throughout present law.

Proposed law provides that any person who desires to become licensed as a residential contractor shall perform all of the following:

- (1) Make application to the board on a form adopted by the board.
- (2) Submit all of the following documentation to the board:
 - (a) Acceptable proof of workers' compensation coverage and general liability insurance in a minimum amount of \$100,000 or liability protection provided by a liability trust fund in a minimum amount of \$100,000.
 - (b) A financial statement, current to within 12 months of the date of filing, prepared by an independent auditor and signed by the applicant and auditor before a notary public, stating the assets of the applicant.
- (3) Passed the business and law examination and all applicable trade examinations required by the State Licensing Board for Contractors.

Proposed law provides that a subcommittee may exempt any person working in the residential building industry who holds a builders construction license issued by the State Licensing Board for Contractors prior to February 1, 1996, with the classification of building construction from the examination and grant such person a residential contractor's license.

Proposed law provides that any home improvement contractor license holder who possesses a certificate of registration from the subcommittee as of August 1, 2016, shall be entitled to complete any preexisting contract that he has entered into in excess of \$7,500 without having to obtain a residential contractor's license as provided by this Chapter. However, such 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 provides that the board, before issuing a license to any residential contractor, shall set forth the residential contractor's classification on such license, according to the classification requested by the contractor and for which he has completed all of the requirements of the board.

Proposed law provides that the licensee shall be permitted to bid or perform any type or types of work included in the classification under which his license was issued.

Proposed law provides that the licensee may apply for and receive additions to or changes in his classification by making application to the board, successfully completing the written examination, and paying the required fees. Additions or changes to an existing license shall become effective after compliance with certain provisions of law and upon board approval.

Proposed law provides that the subcommittee may deny licensure or renewal of a license upon a finding by the subcommittee that the applicant has committed one or more of the following acts:

- (1) Made material omission or misrepresentations of fact on its application for registration or renewal.
- (2) Failed to pay either the licensing fee or renewal fee.
- (3) Failed consistently to perform contracts, performed contracts in an unworkmanlike manner, failed to complete contracts with no good cause, or engaged in fraud or bad faith with respect to such contracts.

Present law provides for licensing exemptions.

Proposed law exempts from licensure the following:

- (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 owned by him when the residential work has a value of less than \$7,500.
- (5) Any person who works exclusively in landscaping and interior painting or wall covering, where the costs of the project does not exceed \$50,000.

Effective August 1, 2016.

(Amends R.S. 37:2150.1(2), (4)(a), (5), (6), (7), (8)(a), (9), (10), (11), (12) and (13), 2152(B)(3) and (4), 2154(A)(2) and (5), 2155(A), (B), (C), and (D), 2156 (G), 2156.1(A)(intro para), 2156.1(C), (D)(1)(intro para), (D)(1)(c), and (D)(2), 2157(A)(intro para), 2159(C), 2162(L), 2167, 2170(A)(2), 2171.1, 2171.2(B), 2175.1(A)(intro para), 2175.1 (A)(1), (2), (4)(a), (7), (B) and (D), 2175.3(A)(1), (2), (3), (5), (6), (7), (8), (9) and (10) and (B), 2175.4, and 2175.6; adds R.S. 37:2150.1(14), (15) and (16)(a), 2156.1(D)(4) and (5) and (M)(4), 2158(A)(12), 2167.2, 2167.3, and 2170(A)(4), (5), (6), and (7); repeals R.S. 37:2171, 2175.2, 2175.3(11), and 2175.5)