

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), (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), the introductory paragraph of
8 2175.3(A), 2175.3(A)(1), (2), (3), (5), (6), (7), (8), (9) and (10) and (B), 2175.4, and
9 2175.6 and to enact R.S. 37:2150.1(14), (15) and (16), 2156.1(D)(4) and (5) and
10 (M)(4), 2158(A)(12), 2167.2, 2167.3, and 2170(A)(4), (5), (6), and (7) and to repeal
11 R.S. 37:2150.1(4.1) and (8.1), 2171, 2175.2, 2175.3(11), and 2175.5, relative to the
12 State Licensing Board for Contractors; to provide certain definitions, terms,
13 procedures, conditions, and effects; to provide relative to board composition and
14 procedure; to provide relative to license issuance; to provide certain requirements
15 and exceptions; to provide relative to residential contracting; to provide certain
16 sanctions and penalties; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 37:2150.1(2), (4)(a), (5), (6), (7), (8), (9), (10), (11), (12) and (13),
 2 2152(B)(3) and (4), 2154(A)(2) and (5), 2155(A), (B), (C), and (D), 2156 (G), the
 3 introductory paragraph of 2156.1(A), 2156.1(C), the introductory paragraph of (D)(1),
 4 (D)(1)(c), and (D)(2), the introductory paragraph of 2157(A), 2159(C), 2162(L), 2167,
 5 2170(A)(2), 2171.1, 2171.2(B), the introductory paragraph of 2175.1(A), 2175.1(A)(1), (2),
 6 (4)(a), (7), (B) and (D), the introductory paragraph of 2175.3(A), 2175.3(A)(1), (2), (3), (5),
 7 (6), (7), (8), (9) and (10) and (B), 2175.4, and 2175.6 are hereby amended and reenacted and
 8 R.S. 37:2150.1(14), (15) and (16), 2156.1(D)(4) and (5) and (M)(4), 2158(A)(12), 2167.2,
 9 2167.3, and 2170(A)(4), (5), (6), and (7) are hereby enacted to read as follows:

10 §2150.1. Definitions

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

13 * * *

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

20 * * *

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

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

5 * * *

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

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

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

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

29 (b) "General contractor" shall not mean any person, supplier, manufacturer,

1 or employee of such person who assembles, repairs, maintains, moves, puts up, tears
2 down, or disassembles any patented, proprietary, or patented and proprietary
3 environmental equipment supplied by such person to a contractor to be used solely
4 by the contractor for a construction undertaking.

5 ~~(7) "Home improvement contracting" means the reconstruction, alteration,~~
6 ~~renovation, repair, modernization, conversion, improvement, removal, or demolition,~~
7 ~~or the construction of an addition to any pre-existing owner occupied building which~~
8 ~~building is used or designed to be used as a residence or dwelling unit, or to~~
9 ~~structures which are adjacent to such residence or building. "Home improvement~~
10 ~~contracting" shall not include services rendered gratuitously.~~

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

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

1 ~~(9)~~**(10)** "Person" means any individual, firm, partnership, association,
2 cooperative, corporation, limited liability company, limited liability partnership, or
3 any other entity recognized by Louisiana law; and whether or not acting as a
4 principal, trustee, fiduciary, receiver, or as any other kind of legal or personal
5 representative, or as a successor in interest, assignee, agent, factor, servant,
6 employee, director, officer, or any other representative of such person; or any state
7 or local governing authority or political subdivision performing a new construction
8 project which exceeds the contract limits provided in R.S. 38:2212 and which does
9 not constitute regular maintenance of the public facility or facilities which it has been
10 authorized to maintain.

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

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

1 ~~beyond the normal architectural or engineering services. "Residential building~~
 2 ~~contractor" also means any person performing home improvement contracting as~~
 3 ~~provided for in Paragraph (7) of this Section when the cost of the undertaking~~
 4 ~~exceeds seventy-five thousand dollars. It shall not include the manufactured housing~~
 5 ~~industry or those persons engaged in building residential structures that are mounted~~
 6 ~~on metal chassis and wheels.~~

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

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

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

15 **(i) Pile driving.**

16 **(ii) Foundations.**

17 **(iii) Framing.**

18 **(iv) Roofing.**

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

20 **(vi) Swimming pools.**

21 **(vii) Home improvement.**

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

25 ~~(12)~~**(15)** "Subcontract" means the entire cost of that part of the contract which
 26 is performed by the subcontractor.

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

1 (b) "Subcontractor" shall not mean any person, supplier, manufacturer, or
 2 employee of such person who assembles, repairs, maintains, moves, puts up, tears
 3 down, or disassembles any patented, proprietary, or patented and proprietary
 4 environmental equipment supplied by such person to a contractor to be used solely
 5 by the contractor for a construction undertaking.

6 * * *

7 §2152. Initial appointments; oaths; panel of names; domicile; officer; bond

8 * * *

9 B. * * *

10 (3) After the board shall have qualified, it shall meet in the city of Baton
 11 Rouge which place is hereby fixed as the domicile of the board. **The board may**
 12 **hold meetings outside of Baton Rouge after such location has been properly**
 13 **noticed as a public meeting.**

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

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

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

23 * * *

24 §2154. Meetings; compensation; quorum; license application and issuance
25 procedure

26 A. * * *

27 (2) The board may receive applications for licenses under this Chapter at any
 28 time. Upon initial application, the license of a contractor domiciled in the state of
 29 Louisiana shall be issued after all requirements have been met and approved by the

1 board ~~at its next regularly scheduled meeting~~. Upon the initial application of a
 2 contractor domiciled outside of the state of Louisiana, except as provided herein, a
 3 period of at least sixty days must elapse between the date the application is filed and
 4 the license is issued. The executive director shall compile a list of all applicants for
 5 licensure that are to be considered at a board meeting and mail such list to each board
 6 member at least ten days prior to the meeting. The executive director shall certify
 7 that the list contains only the names of applicants who have fulfilled all licensure
 8 requirements and the board shall ~~only consider~~ **consider only the** applications on
 9 such list.

10 * * *

11 (5) ~~All meetings~~ **Meetings** of the board shall be held in the city of Baton
 12 Rouge, Louisiana, or in other locations as determined by the board ~~unless~~
 13 ~~otherwise provided for in the bylaws of the board~~. Before a special meeting may be
 14 held, notice thereof stating ~~time, place, and purpose of said~~ **the time, place, and**
 15 **purpose of the** meeting shall be sent by the chairman or vice chairman of the board
 16 by ~~registered~~ **certified** mail or ~~telegram~~ **email** to the members thereof, addressed to
 17 their mailing addresses on file with the board, at least three days before the date of
 18 the meeting. No board meeting shall be recessed from one calendar day to another.

19 * * *

20 §2155. Books and records; evidence; reports

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

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

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

5 D. The ~~secretary-treasurer~~ of the board shall keep full and complete minutes
 6 of each board meeting whether regular or special, including full information as to
 7 each application for license considered and the board's action thereon as well as all
 8 expenditures of the board that are approved. These board minutes shall be typed and
 9 attested to by the ~~secretary-treasurer~~ and copies thereof shall be made available to
 10 each board member and to the public **upon the adoption of the minutes at the next**
 11 **scheduled meeting of the board** ~~within a period of twenty-one days after the~~
 12 ~~adjournment of said meeting.~~

13 * * *

14 §2156. Unexpired licenses; fees; renewals

15 * * *

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

21 §2156.1. Requirements for issuance of a license

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

26 * * *

27 C. ~~The applicant~~ **All persons who desire to become licensed as a**
 28 **contractor, electrical contractor, or mechanical contractor** shall furnish the board
 29 with a financial statement, current to within twelve months of the date of filing,

1 prepared by an independent auditor and signed by the applicant and auditor before
2 a notary public, stating the assets of the applicant, ~~to be used by the board to~~
3 ~~determine the financial responsibility of the applicant to perform work on a~~
4 ~~construction undertaking, the entire cost of which is fifty thousand dollars or more.~~

5 Such assets shall include a net worth of at least ten thousand dollars. An applicant
6 without the net worth required herein may furnish the board a bond, letter of credit,
7 or other security acceptable to the board in the amount of such net worth requirement
8 plus the amount of the applicant's negative net worth if any, and the furnishing of
9 such bond, letter of credit, or other security shall be deemed satisfaction of such net
10 worth requirement for all purposes. ~~The financial statement and any information~~
11 ~~contained therein, as well as any other financial information required to be submitted~~
12 ~~by a contractor, shall be confidential and not subject to the provisions of R.S. 44:1~~
13 ~~through 37, inclusive.~~ Nothing contained in this Subsection shall be construed to
14 require a licensed contractor to provide a financial statement in connection with the
15 renewal of an existing license.

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

1 qualify within sixty days. The qualifying party or parties are:

2 * * *

3 (c) Any stockholder of a corporation who was an original incorporator or
4 original stockholder as shown in the articles of incorporation. Any member or
5 manager who was an original organizer of a limited liability company pursuant
6 to the articles of organization.

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

9 * * *

10 (4) No person shall provide copies of any portion of the examination
11 given by or from the board to any individual for the purpose of assisting an
12 examinee to subvert, or attempt to subvert, any examination given by or for the
13 board. Any person who violates the provisions of this Paragraph shall be
14 ineligible to serve as a qualifying party for a licensee for a period of one year.

15 * * *

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

20 * * *

21 (4) Holds any waiver authorized pursuant to the provisions of this
22 Subsection shall be issued prior to August 1, 2016.

23 * * *

24 §2157. Exemptions

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

26 * * *

27 §2158. Revocation, suspension, and renewal of licenses; issuance of cease and desist
28 orders; debarment; criminal penalty

29 A. The board may revoke any license issued hereunder, or suspend the right

1 of the licensee to use such license, or refuse to renew any such license, or issue cease
2 and desist orders to stop work, or debar any person or licensee, for any of the
3 following causes:

4 * * *

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

7 * * *

8 §2159. Classification; bidding and performing work within a classification

9 * * *

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

16 * * *

17 §2162. Violations; civil penalty

18 * * *

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

* * *

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

A. ~~No person shall work as a residential building contractor, as defined in this Chapter, in this state unless he holds an active license in accordance with the provisions of this Chapter.~~ **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:

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

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

(b) A financial statement, current to within twelve 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. Such assets shall include a net worth of at least ten thousand dollars. An applicant without the net worth required herein may furnish the board a bond, letter of credit, or other security acceptable to the board in the amount of such net worth requirements plus the amount of the applicant's negative net worth, if any, and the furnishing of such bond, letter of credit, or other security shall be deemed satisfaction of such net worth requirements for all purposes.

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

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

4 C. The State Licensing Board for Contractors shall administer an examination
5 for licensure of residential building contractors at such times and places as it shall
6 determine in accordance with the testing procedures of the board. The examination
7 shall test the applicant's knowledge of such subjects as the subcommittee may
8 consider useful in determining the applicant's fitness to be a licensed residential
9 building contractor. The subcommittee shall determine the criteria for satisfactory
10 performance.

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

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

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

20 E. The provisions of Paragraphs D(2), (3), and (4) shall terminate on January
21 1, 1998.

22 C. Any home improvement contractor license holder who possesses a
23 certificate of registration from the subcommittee as of August 1, 2016, shall be
24 entitled to complete any preexisting contract that he has entered into in excess
25 of seven thousand five hundred dollars without having to obtain a residential
26 contractor's license as provided by this Chapter. However, such home
27 improvement contractor shall be required to obtain a residential contractor's
28 license prior to bidding or entering into any contracts in excess of seven
29 thousand five hundred dollars after August 1, 2016.

* * *

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

A. 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. The board may adopt rules in accordance with the Administrative Procedure Act setting forth additional specialty classifications and the requirements to obtain such classification.

B. 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.

C. 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 the provisions of this Subsection and upon board approval.

§2167.3. Denial of licensure or renewal

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.

* * *

§2170. Exceptions

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

* * *

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

* * *

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

(5) 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.

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

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

* * *

§2171.1. Inspection of local building permits

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

§2171.2. Requirements; building permit

* * *

B. In addition to and notwithstanding requirements set forth in Subsection A of this Section, a nonresident commercial; ~~or 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.

* * *

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

1 §2175.1. ~~Home improvement~~ **Residential** contracting; written contract required;
2 right to cancel

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

7 (1) The complete agreement between the owner and the contractor **and any**
8 **subcontractor** and a clear description of any other documents which are or shall be
9 incorporated into the agreement.

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

12 * * *

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

15 * * *

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

22 "NOTICE OF CANCELLATION

23 If your insurer denies all or any part of your claim to pay for goods and
24 services in connection with the repair or replacement of a roof system to be provided
25 under this contract, you may cancel the contract by mailing or delivering a signed
26 and dated copy of this cancellation notice or any other written notice to (name of
27 ~~home improvement~~ **residential** contractor) at (address of contractor's place of
28 business) at any time within seventy-two hours after you have been notified that your
29 claim has been denied. If you cancel, any payments made by you under the contract,

1 except for certain emergency work already performed by the contractor, shall be
2 returned to you within ten business days following receipt by the contractor of your
3 cancellation notice.

4 I HEREBY CANCEL THIS TRANSACTION

5 _____

6 (Date)

7 _____

8 (Insured's Signature)"

9
10 B. At the time of signing, the owner shall be furnished with a copy of the
11 contract signed by both the ~~home improvement~~ **residential** contractor and the owner.
12 No work shall begin prior to the signing of the contract and transmittal to the owner
13 of a copy of the contract.

14 * * *

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

28 (2) Within ten days after a contract referred to in this Subsection has been
29 cancelled, the ~~home improvement~~ **residential** contractor shall tender to the owner

1 or possessor of the residential real estate any payments, partial payments, or deposits
 2 made by the insured party and any note or other evidence of indebtedness. If,
 3 however, the ~~home improvement~~ **residential** contractor has performed any
 4 emergency services, acknowledged by the insured in writing to be necessary to
 5 prevent damage to the premises, the ~~home improvement~~ **residential** contractor shall
 6 be entitled to the reasonable value of such services.

7 * * *

8 §2175.3. ~~Home improvement~~ **Residential** contracting; prohibited acts; violations

9 A. The following acts are prohibited by persons performing ~~home~~
 10 ~~improvement~~ **residential** contracting services:

11 (1) ~~Operating without a certificate of registration issued by the subcommittee.~~
 12 **Working as a residential contractor in this state without possessing an active**
 13 **license in accordance with the provisions of this Chapter.**

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

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

21 * * *

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

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

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

29 ~~(7)~~**(8)** Failing to pay for materials or services rendered in connection with his

1 operating as a ~~home improvement~~ **residential** contractor where he has received
2 sufficient funds as payment for the particular construction work, project, or operation
3 for which the services or material were rendered or purchased.

4 ~~(8)~~**(9)** Making a false representation that the person is a state licensed general
5 contractor.

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

7 (10) Advertising or promising to pay or rebate all or any portion of an
8 applicable insurance deductible as an inducement to the sale of goods or services in
9 connection with the repair or replacement of a roof system. For the purposes of this
10 Section, a promise to pay or rebate the insurance deductible shall include granting
11 any allowance or offering any discount against the fees to be charged or paying the
12 insured party any form of compensation for any reason, including but not limited to
13 permitting the ~~home improvement~~ **residential** contractor to display a sign or any
14 other type of advertisement at the insured party's premises, or paying an insured
15 party for providing a letter of referral or recommendation. If a ~~home improvement~~
16 **residential** contractor violates this Paragraph:

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

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

24 * * *

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

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

1 Chapter:

2 §2175.4. Home improvement **Residential** contracting; ~~administrative~~ violations;
3 civil penalties

4 A. If the subcommittee determines that any registrant is liable for violation
5 of **residential contractor has violated** any of the provisions contained in this Part,
6 the subcommittee may suspend the ~~registrant's certificate of registration~~ **residential**
7 **contractor's license** for such period of time as shall be determined by the
8 subcommittee, revoke the ~~registrant's certificate of registration~~ **residential**
9 **contractor's license**, or reprimand the registrant **residential contractor**.

10 B.(1) ~~The subcommittee may assess an administrative penalty not to exceed~~
11 ~~one hundred dollars or twenty-five percent of the total contract price, whichever is~~
12 ~~greater, payable within thirty days of their order, for each violation of any of the~~
13 ~~provisions of this Part, committed by the home improvement contractor who is~~
14 ~~registered or who is required to be registered, plus any administrative costs incurred~~
15 ~~by the subcommittee.~~ **Any licensed residential contractor who violates any**
16 **provisions of this Part shall, after notice and a hearing, be liable to the board**
17 **for a fine of up to one thousand dollars plus costs and attorney fees for each**
18 **offense. If the board brings an action against a person pursuant to this Section**
19 **and fails to prove his case, the board shall be liable to such person for the**
20 **payment of his reasonable litigation expenses as defined in R.S. 49:965.1(D)(1).**

21 **(2) Any residential contractor who is not properly licenced and who**
22 **violates any provision of this Part shall, after notice and a hearing, be liable to**
23 **the board for a fine of up to ten percent of the total cost of the project, plus any**
24 **costs and attorney fees for each offense.**

25 C. In determining whether to impose an administrative penalty, the
26 ~~administrator~~ **subcommittee** shall consider the seriousness of the violation, the effect
27 of the violation on the complainant, any good faith on the part of the ~~home~~
28 ~~improvement~~ **residential** contractor, and the ~~home improvement~~ **residential**
29 contractor's history of previous violations.

* * *

§2175.6. ~~Home improvement contracting; claims of unregistered persons~~

Residential contracting; claims of unlicensed persons

No home improvement **A residential** contractor who fails to obtain a certificate of registration as provided for in this Part **is not properly licensed** 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, whether express, implied, or otherwise, when any provision of this Part **Chapter** requires that the home improvement **residential** contractor possess a certificate of registration issued by the subcommittee **be licensed** in order to have properly entered into such a contract.

Section 2. R.S. 37:2150.1(4.1) and (8.1), 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 Reengrossed

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. 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), (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), (A)(1), (2), (4)(a), (7), (B) and (D), 2175.3(A)(intro para), (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), 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: 2150.1(4.1) and (8.1), 2171, 2175.2, 2175.3(11), and 2175.5)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical bureau note changes.
2. Makes legislative bureau changes.