
DIGEST

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HB 273 Engrossed

2019 Regular Session

Carmody

Abstract: Provides for procedural and technical updates and a modernization of language and processes in contractor law.

Present law defines "commercial purpose" as any construction job except residential homes and attached homes with four or less units. Proposed law retains this portion of the definition in present law. Present law further provides that a project that includes more than two residential homes in a subdivision shall be deemed a commercial undertaking. Proposed law deletes present law.

Present law defines "contractor" as any person who does or offers to construct, supervise, superintend, oversee, direct, or take 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 of at least \$50,000 or more when the property is to be used for commercial purposes. Proposed law retains this portion of present law but changes the definition of "contractor" to reflect the changes to the definition of "commercial purpose" in proposed law.

Present law defines "residential building contractor" to mean any corporation, partnership, or individual who constructs a fixed building or structure for sale or use by another residence who is paid to take on the construction or superintending of the construction of any building or structure, not more than three floors in height, to be used by another as a residence and exceeds the cost of \$75,000.

Proposed law changes the definition by also requiring that the structure has no more than four incorporated or attached dwelling units.

Proposed law creates a definition for "cost of project" and defines the term to mean the value of all labor, materials, subcontractors, overhead, and supervision.

Present law provides a procedure for the appointment of nineteen members to the State Licensing Board for Contractors (the board). The procedure set forth in present law is for initial appointments to require the nominations to be submitted to the secretary of state. Present law includes antiquated dates by which the submissions shall be made.

Proposed law retains the number of members allotted to the board and the sources of the

appointments. Proposed law deletes obsolete dates and outdated procedures, and moves present law so that the organizations that submit the nominees and the number of nominees presented are in a different location in present law for easier readability with present law.

Present law provides for the officers of the board and specifies that there shall be a secretary-treasurer. Proposed law breaks the position into two positions, creating both a secretary and a treasurer.

Present law requires that the board meet once a month in Baton Rouge and that the meeting notice be posted at the board office at least ten days in advance. Proposed law adds a requirement that the notice be posted on the board's website, and that the board may meet in another location if that information is indicated on the notice. Proposed law otherwise retains present law.

Present law requires that a time period of sixty days must elapse after an out-of-state contractor applies for a license before the license is issued. Proposed law allows the board to waive the sixty-day time period.

Present law provides that if the board would like to hold a special meeting, that the chairman or vice chairman notify the members by registered mail or telegram at least three days before the meeting. Proposed law deletes registered mail and telegram as means of notification and instead requires electronic notification.

Proposed law clarifies the number of members required to constitute a quorum and conduct business. Present law provides that 10 members constitute a quorum and proposed law adds that 10 is sufficient regardless of the total number of members appointed.

Present law requires the secretary-treasurer to furnish a bond, handle money, and register all applicants for licenses and their pertinent information in a register book, keeping a roster. Proposed law splits the duties to require that the newly created treasurer furnish a bond and handle the finances and that the board administrator keep a roster online. Proposed law deletes the requirement that a register book be maintained.

Present law requires the secretary-treasurer to keep minutes of the meetings and make them available to members and to the public within 21 days of the meeting. Proposed law gives the responsibility to the secretary and provides that meeting minutes shall be prepared and made available when they are adopted at the next meeting; removing the 21 day time period.

Present law requires that a list of applicants for licensure be mailed to each member of the board. Proposed law deletes the mailing requirement and instead requires the executive director of the board to transmit the list of applicants.

Present law requires each applicant to furnish a financial statement to the board that has been prepared by an independent auditor. Proposed law deletes the requirement that an auditor prepare the records, instead allowing that an accountant, bookkeeper, or certified public accountant may prepare them. Proposed law further requires that the applicant sign the financial statement before

a notary public to attest to its correctness.

Present law requires every applicant for licensure to designate a qualifying party as his legal representative. Present law requires the qualifying party to complete an application. Proposed law retains present law and further requires the qualifying party to pass an examination.

Present law sets out a list of qualifying parties including: any individual contractor or copartner, an employee of an applicant, or any stockholder of a corporation where the applicant was an original incorporator or original stockholder. Proposed law deletes individual contractor or copartner and adds sole proprietor or spouse or a sole proprietor, any partner of a partnership, and any member or manager of an LLC.

Present law provides that the state examination preempts any local examination for licensure. Proposed law deletes the requirement that the board prepare and maintain a list of local examinations.

Present law requires the board to waive examination and grant a mechanical contractor or an electrical contractor license in certain circumstances. Proposed law deletes the waiver requirement.

Proposed law allows the board to consolidate subclassifications or specialties by rule.

Proposed law deletes the option of obtaining a license in a specialty classification under a listed subclassification or in unlisted specialty work.

Present law allows the board to revoke or suspend a license for a number of reasons. Proposed law retains the list of revocable offenses and further allows the board to revoke the license of a party who fails to timely notify the board of any change of company name, address, or other contact information.

Present law allows a licensee to apply for additions or changes to his classification by applying, passing an examination, and paying the required fees. Present law specifies that the board will approve any changes at its next scheduled meeting. Proposed law deletes the requirement that the changes be approved at the next meeting.

Present law provides that nothing in present law prohibits the issuance of plans and specifications to recognized plan rooms or material suppliers when the plans and specifications will only be used to prepare proposals to be incorporated in the bid in connection with federal aid. Proposed law deletes present law.

Present law requires an applicant for a license to perform mold remediation to present evidence that he has completed at least 24 hours of training in mold remediation and basic mold assessment and four hours of instruction in Louisiana's "Unfair Trade Practices and Consumer Protection Law". Proposed law removes the requirement of four hours of instruction in Louisiana's "Unfair Trade Practices and Consumer Protection Law".

Proposed law makes technical changes.

(Amends R.S. 37:2150.1(2), (4)(a), (8), (10), and (11), 2151, 2152, 2154, 2155, 2156(A), (C)(1) and (2), (D), and (G), 2156.1(A)(intro. para.), (B)-(M), 2156.2(A)(I)(29) and (II)(1), 2157, 2158(A)(intro. para.), (1)-(5), (9), and (11), (B), (D), and (E), 2159(A)-(C), 2162(A)- (E), and (I)-(L), 2163(C) and (D), 2167(A), (B)(3), (C), and (D), and 2186(B)(3) and (C); Adds R.S. 37:2158(A)(12); Repeals R.S. 37:2156.1(N), 2156.2(A)(IX), 2162(M), 2163(E), and 2167(E))

Summary of Amendments Adopted by House

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

1. Remove a four-hour instruction requirement in Louisiana's "Unfair Trade Practices and Consumer Protection Law" for applicants for a license to perform mold remediation.
2. Make technical changes.