

1 §2151. State licensing board for contractors; membership; qualifications; tenure;
2 vacancies

3 * * *

4 B. The members shall be selected and appointed as follows:

5 * * *

6 (5) ~~At least two members shall have had the greater part of their experience~~
7 ~~as a subcontractor in the construction industry in fields other than electrical or~~
8 ~~mechanical construction, and shall be appointed from a list of four names submitted~~
9 ~~by the American Subcontractors Association of Louisiana. One member appointed~~
10 ~~by the chair of the House Committee on Commerce or his designee and one member~~
11 ~~appointed by the chair of the Senate Committee on Commerce, Consumer Protection,~~
12 ~~and International Affairs or his designee.~~

13 * * *

14 §2155. Residential Contractors Subcommittee; membership; terms; powers; duties

15 * * *

16 G. Subject to the approval of the board, the residential subcommittee shall
17 have all of the following powers and duties:

18 (1) To adopt rules and regulations to govern residential ~~and home~~
19 ~~improvement~~ contractors in this state.

20 * * *

21 §2156.1. Requirements for issuance of a license

22 * * *

23 E. Residential construction ~~and home improvement construction~~ applicants
24 for licensure shall be required to submit certificates evidencing workers'
25 compensation coverage in compliance with Title 23 of the Louisiana Revised
26 Statutes of 1950; and liability insurance in a minimum amount of one hundred
27 thousand dollars or liability protection provided by a liability trust fund as authorized

1 by ~~R.S. 22:46(9)(d)~~ R.S. 22:46 in a minimum amount of one hundred thousand
2 dollars.

3 * * *

4 M. Any individual who is domiciled in this state and maintained a home
5 improvement contractor's registration three years prior to the effective date of this
6 Act, shall be exempt from the residential contractor trade examination requirement
7 and issued a residential contractor's license if the individual has maintained
8 compliance with the provisions of this Chapter, has no prior violations, and is in
9 good standing with the board.

10 * * *

11 §2157. Exemptions

12 A. The provisions of this Part shall not apply to any of the following:

13 (1) The state or any of its political subdivisions.

14 (2) Any public utility providing gas, electric, or telephone service which is
15 subject to regulation by the Louisiana Public Service Commission or the council of
16 the city of New Orleans, or to any work performed by the public utility in furnishing
17 its authorized service.

18 (3) Owners of property who supervise, superintend, oversee, direct, or in any
19 manner assume charge of the construction, alteration, repair, improvement,
20 movement, demolition, putting up, tearing down, or maintenance of any building,
21 railroad excavation, project, development, improvement, plant facility, or any other
22 construction undertaking, on that property, for use by the owner, and which will not
23 be for sale or rent, and the control of access to which shall be controlled by the
24 owner so that only employees and nonpublic invitees are allowed access.

25 (4) Any person donating labor and services for the supervision and
26 construction of or for the maintenance and repair of churches.

27 (5) Any farmer doing construction for agricultural purposes on leased or
28 owned land.

1 (6) Any person bidding or performing work on any project totally owned by
2 the federal government.

3 (7) Any person engaged in rail or pipeline construction activities performed
4 on property he owns or leases.

5 (8) Any citizen volunteering labor for the construction of a project which is
6 funded by the Louisiana Community Development Block Grant, Louisiana Small
7 Towns Environment Program.

8 (9) Any person, supplier, or manufacturer, who assembles, repairs,
9 maintains, moves, puts up, tears down, or disassembles any patented or proprietary
10 equipment supplied to a contractor to be used solely for a construction project.

11 (10) The manufactured housing industry or any person engaged in any type
12 of service, warranty, repair, or home improvement work on factory-built, residential
13 dwellings that are mounted on chassis and wheels.

14 (11) Any person bidding or performing work on any project paid for by
15 monies from the Oilfield Site Restoration Fund or Coronavirus Aid, Relief, and
16 Economic Security (CARES) Act.

17 (12) Any work covering dewatering or water mitigation.

18 (13) Any employee of any contractor.

19 (14) Owners of property who supervise, superintend, oversee, direct, or in
20 any manner assume charge of the construction, alteration, repair, improvement,
21 movement, demolition, putting up, tearing down, or maintenance of their personal
22 residences, if the homeowner does not build more than one residence per year. The
23 one-year period shall commence on the date of occupancy of the residence.
24 However, an owner of property may build more than one single-family dwelling in
25 a one-year period if the construction of an additional residence occurs as a result of
26 a change in the legal marital status of the owner or change in the employment status
27 of the owner whereby the owner ~~must~~ shall relocate to another employment location,
28 which is located in excess of fifty miles from his personal residence.

1 (15) Persons performing the work of a residential contractor in areas or
2 municipalities that do not have a permitting procedure.

3 (16) Any person performing as a subcontractor and who is overseen by a
4 licensed residential contractor or a homeowner who is exempted from residential
5 licensing requirements is exempt from licensure. This exemption shall not apply to
6 the following scopes of work: electrical, mechanical, plumbing, mold, asbestos, or
7 hazardous materials.

8 B. The following persons are exempt from ~~home improvement~~ residential
9 contractor licensure:

10 (a) ~~(1) A residential property owner who physically performs the home~~
11 ~~improvement work on his personal residence.~~ Persons who exclusively perform
12 landscaping.

13 (b) ~~(2) Persons licensed as a building construction contractor or residential~~
14 ~~contractor.~~ Persons who exclusively perform painting or wall covering.

15 (c) ~~Any person who works exclusively in any of the following home~~
16 ~~improvement areas:~~

17 (i) ~~Landscaping.~~

18 (ii) ~~Interior painting or wall covering.~~

19 ~~(17)~~ C. The following persons are exempt from mold remediation licensure:

20 (a) ~~(1)~~ (1) A residential property owner who performs mold remediation on his
21 own property.

22 (b) ~~(2)~~ (2) An owner or tenant, or a managing agent or employee of an owner or
23 tenant, who performs mold remediation on property owned or leased by the owner
24 or tenant. This exemption does not apply if the managing agent or employee
25 engages in the business of performing mold remediation for the public.

26 ~~B:~~ D. The provisions of this Section shall not be construed to waive local
27 and state health and life safety code requirements.

1 §2158. Revocation and suspension of licenses; issuance of cease and desist orders;
2 debarment; violations; penalty; criminal penalty

3 A. No person may engage in the business of contracting, or act as a
4 contractor as defined in this Chapter, unless he holds an active license as a contractor
5 in accordance with the provisions of this Chapter. The board and residential
6 subcommittee may revoke, suspend, or refuse to renew a license; issue cease and
7 desist orders to stop work; issue fines and penalties; or debar any person or licensee
8 licensed pursuant to the provisions of this Chapter for any of the following
9 violations:

10 * * *

11 (15) Failure of a contractor performing residential ~~or home improvement~~
12 construction in accordance with this Chapter to provide, in writing to the party with
13 whom he has contracted to perform contracting services, his name, contracting
14 license number, classification, and current insurance certificates evidencing the
15 amount of liability insurance maintained and proof of workers' compensation
16 coverage when requested by the contracting party for whom the work is to be
17 performed.

18 * * *

19 §2159.1. ~~Home improvement~~ Residential contracting; prohibited acts; property
20 insurance

21 The following acts are prohibited by persons or companies performing ~~home~~
22 ~~improvement~~ residential contracting services:

23 * * *

24 (7)(a) Accepting an assignment of any rights, benefits, proceeds, or causes
25 of action of an insured under a property insurance policy prior to completing the
26 work described in the ~~home improvement~~ residential contract and the property
27 insurer conducting its initial examination of the damage caused by the covered peril.
28 The assignment of any rights, benefits, proceeds, or causes of action shall be limited

1 to the scope of work and fees provided in the ~~home improvement~~ residential contract;
2 ~~which shall comply with the provisions of R.S. 37:2159.~~

3 (b) For the purposes of this Paragraph, ~~home improvement~~ residential
4 contracting services shall include temporary repair, mitigation, reconstruction, or
5 other repair of damage caused by a peril covered under a first-party property
6 insurance policy.

7 (c) The provisions of this Paragraph shall not be interpreted to limit the right
8 of a person performing ~~home improvement~~ residential contracting services to perfect
9 an otherwise valid lien on the property, as provided by law.

10 * * *

11 §2161. Construction management

12 A. Any person who performs, attempts to perform, or submits a price, bid,
13 or offer to perform work in construction management whose scope of authority and
14 responsibility include supervision, oversight, direction, or in any manner assumes
15 charge for the construction services provided to an owner by a contractor or
16 contractors, in which the value of the construction project is:

17 * * *

18 (2) In ~~excess of seventy-five~~ an amount of ten thousand dollars or more for
19 a residential construction project, shall possess a license from the board in the
20 classification of residential construction.

21 * * *

22 Section 2. R.S. 37:2150.1(4)(a)(iii), (8), and (9), 2156(C)(5), 2159, and 2161(A)(3)
23 are hereby repealed in their entirety.

24 Section 3. This Act shall become effective on January 1, 2024.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 199 Engrossed

2023 Regular Session

Romero

Abstract: Provides for certain residential contractor, construction, and construction management licenses and repeals certain home improvement provisions.

Present law (R.S. 37: 2150.1(4)(a)) defines "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, furnishing labor, or furnishing labor together with material or equipment, or installing material or equipment for:

- (1) 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 is \$50,000 or more when the property is to be used for commercial purposes.
- (2) Any new residential structure where the entire cost is \$75,000 or more when the property is used for residential purposes.
- (3) Any improvements or repairs where the entire cost exceeds \$7,500 to an existing residential structure.
- (4) Any mold remediation where the entire cost exceeds \$7,500.

Proposed law expands a contractor's installation of material or equipment from any new residential structure to also include the renovation, repair, and maintenance of an existing residential structure.

Proposed law lowers the licensing threshold for residential structures from \$75,000 to \$10,000.

Proposed law repeals the contractor classification for any improvements to an existing residential structure where the entire cost exceeds \$7,500.

Present law (R.S. 37:2150.1(8)) defines "home improvement contracting" as the reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, or demolition, or the construction of an addition to any preexisting residential structure which building is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent to such residence or building where the project value exceeds \$7,500 but is not greater than \$75,000. Present law further provides that home improvement contracting shall not include services rendered gratuitously.

Proposed law repeals present law.

Present law (R.S. 37: 2150.1(9)) defines "home improvement contractor" as any person who undertakes or attempts to undertake or submits a price or bid on any home improvement contracting project. Proposed law repeals present law.

Present law (R.S. 37:2150.1(15)) defines "residential contractor" as any person who constructs a fixed building or structure for sale or use as a residence. Present law also provides that "residential contractor" includes all persons who receive an additional fee for

the employment or direction of labor, or any other work beyond the normal architectural or engineering services.

Proposed law retains present law and adds that a residential contractor is a person who:

- (1) Constructs an accessory building or an out building adjacent to a structure intended to be used as residence.
- (2) Performs renovation, repair, or maintenance of an existing structure intended to be used for residential purposes.

Proposed law lowers the threshold for licensure of a residential contractor from a cost that exceeds \$75,000 to a cost that equals or exceeds \$10,000.

Present law further defines "residential contractor" as any person performing home improvement contracting when the cost exceeds \$75,000. Proposed law repeals present law.

Present law (R.S. 37:2151(B)(5)) provides that at least 2 members of the board shall be appointed from a list of 4 names submitted by the American Subcontractors Association of La., and the greater part of their subcontractor experience should be in fields other than electrical or mechanical construction.

Proposed law provides that 2 members shall instead be the House Commerce and Senate Commerce chairpersons or their designees.

Present law (R.S. 37:2155(G)(1)) provides that the residential subcommittee has the power and duty to regulate residential and home improvement contractors in the state.

Proposed law repeals the power and duty of the residential subcommittee to regulate home improvement in the state.

Present law (R.S. 37:2156(C)(5)) provides that the home improvement fee shall not exceed \$50.00 for the additional license classification. Proposed law repeals present law.

Present law (R.S. 37:2156.1(E)) provides the licensure of residential construction and home improvement construction. Proposed law repeals licensure for home improvement construction.

Proposed law (R.S. 37:2156.1(M)) provides that any individual who is domiciled in this state and maintained a home improvement contractor's registration certificate for at least 3 years prior to the effective date of proposed law will be exempt for the residential contractor trade examination and issued a residential contractor's license if the individual has maintained compliance has no violations with the board.

Present law (R.S. 37:2157) provides for certain licensure exemptions.

Proposed law adds a licensure exemption for any person performing as a subcontractor who is overseen by a licensed residential contractor, not including electrical, mechanical, plumbing, mold, asbestos, or hazardous material scopes of work. Proposed law further adds that a contractor shall be licensed if the contractor works for a homeowner and changes home improvement contractor exemptions to residential contractor exemptions for landscaping, painting or wall covering.

Present law (R.S. 37:2158(A)(15)) provides that the board and residential subcommittee may revoke, suspend, or refuse to renew a license; issue cease and desist orders to stop work; issue fines and penalties; or debar any licensed person for failure of a contractor who performs residential or home improvement construction.

Proposed law retains present law with respect to residential construction but proposed law repeals present law with respect to home improvement construction.

Present law (R.S. 37:2159) provides that every agreement for any licensee to perform home improvement contracting services in an amount in excess of \$7,500, but no more than \$75,000, shall be in writing. Present law further provides that no work shall begin prior to the signing of the contract and transmittal to the owner of a copy of the contract.

Proposed law repeals present law.

Present law also provides that a home improvement contractor who fails to obtain a license 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 when the home improvement contractor is required to possess a home improvement license issued by the residential subcommittee.

Proposed law repeals present law.

Present law (R.S. 37:2159.1) prohibits persons performing home improvement contracting from engaging in the following:

- (1) Interpreting insurance policy provisions or advising an insured regarding coverage or duties under the insured's property insurance policy.
- (2) Adjusting a property insurance claim on behalf of an insured, unless the contractor holds a public adjuster license.
- (3) Providing an insured with an agreement authorizing repairs without providing a good faith estimate of the itemized and detailed cost of services and materials for repairs undertaken pursuant to a property damage claim.
- (4) Sharing in any legal fee earned by an attorney.
- (5) Requiring an insured to sign an attorney representation agreement on the attorney's behalf.
- (6) Accepting a fee, commission, or other valuable consideration in exchange for a referral to an attorney or law firm by the person.
- (7) Accepting an assignment of any rights, benefits, proceeds, or causes of action of an insured under a property insurance policy prior to completing the work described in the home improvement contract and prior to the property insurer conducting its initial examination of the damage caused by the covered peril.

Proposed law changes home improvement contractor and home improvement contracting to residential contractor and residential contracting with respect to the enumerated prohibited acts for property insurance.

Present law requires any person performing work in construction management in excess of \$75,000 for a residential construction project to possess a license.

Proposed law (R.S. 37:2161(A)(2)) lowers the residential construction licensure threshold from \$75,000 to an amount of \$10,000 or more.

Present law (R.S. 37:2161(A)(3)) requires persons in construction management to possess a license when the construction project is in excess of \$7,500 for a home improvement project. Proposed law repeals present law.

Effective Jan. 1, 2024.

(Amends R.S. 37:2150.1(4)(a)(ii) and (15), 2151(B)(5), 2155(G)(1), 2156.1(E), 2157, 2158(A)(15), 2159.1(intro. para.) and (7), and 2161(A)(2); Adds R.S. 37:2156.1(M); Repeals R.S. 37:2150.1(4)(a)(iii), (8), and (9), 2156(C)(5), 2159, and 2161(A)(3))

Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Lower the licensing threshold for residential structures from \$75,000 to \$10,000.
3. Lower the threshold for licensure of a residential contractor from a cost that exceeds \$75,000 to a cost that equals or exceeds \$10,000.
4. Add that any individual who is domiciled in this state and maintained a home improvement contractor's registration certificate for at least three years prior to the effective date will be exempt for the residential contractor trade examination and issued a residential contractor's license if the individual has maintained compliance and has no violations with the board.
5. Add a licensure exemption for any person performing as a subcontractor who is overseen by a licensed residential contractor, not including electrical, mechanical, plumbing, mold, asbestos, or hazardous material scopes of work.
6. Add that a contractor shall be licensed if the contractor works for an owner of property and change home improvement contractor exemptions to residential contractor exemptions for landscaping, painting or wall covering.
7. Change home improvement contractor and home improvement contracting to residential contractor and residential contracting with respect to certain prohibited acts for property insurance.
8. Lower licensure threshold for residential construction to an amount of \$10,000 or more.
9. Add an effective date.