

SENATE BILL NO. 326

BY SENATOR ABRAHAM

1 AN ACT

2 To amend and reenact R.S. 37:2150.1(3) through (24), 2152(A)(2), 2155(G)(3), 2156(K)(3),
3 (M), and (N), 2156.1(B)(1) and (D) through (J), 2156.2(B)(2), 2157(A)(15)(b), (17),
4 and (18), 2158(C) and (E), 2159.1, and 2164 (A), (B), and (I), to enact R.S.
5 37:21(B)(12) and (13), 2150.1(25) through (29), 2152(A)(3), 2155(G)(6) and (7),
6 2156(A)(3), 2156.1(K), 2156.2(C), 2156.4(D), 2158(A)(24) through (27) and (G),
7 2163.1, and 2164(L), and to repeal R.S. 37:2157(A)(19), relative to the State
8 Licensing Board for Contractors; to provide relative to domicile of the board; to
9 provide for powers and duties of the board; to provide relative to administrative fees
10 retained by the board; to provide relative to license requirements; to provide relative
11 to residential roofing requirements; to provide for unfair or deceptive trade practices;
12 to provide for exemptions; to provide for violations, prohibited acts, and civil
13 penalties; to provide for definitions, terms, and conditions; and to provide for related
14 matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 37:2150.1(3) through (24), 2152(A)(2), 2155(G)(3), 2156(K)(3), (M),
17 and (N), 2156.1(B)(1) and (D) through (J), 2156.2(B)(2), 2157(A)(15)(b), (17), and (18),
18 2158(C) and (E), 2159.1, and 2164(A), (B), and (I) are hereby amended and reenacted and
19 R.S. 37:21(B)(12) and (13), 2150.1(25) through (29), 2152(A)(3), 2155(G)(6) and (7),
20 2156(A)(3), 2156.1(K), 2156.2(C), 2156.4(D), 2158(A)(24) through (27) and (G), 2163.1,
21 and 2164(L) are hereby enacted to read as follows:

1 §21. Limitations on disciplinary proceedings by professional or occupational boards
2 and commissions

3 * * *

4 B. The provisions of this Section shall not apply to the following:

5 * * *

6 **(12) Louisiana State Licensing Board for Contractors.**

7 **(13) Louisiana State Uniform Construction Code Commission.**

8 * * *

9 §2150.1. Definitions

10 As used in this Chapter, the following terms have the following meanings:

11 * * *

12 **(3) "Commercial construction" means the construction of commercial**
13 **projects or commercial projects or structures intended for commercial or public**
14 **use.**

15 **(4)** "Contract" means an agreement to perform a scope of work that is
16 regulated by this Chapter. The project value includes the entire cost of the labor,
17 materials, rentals, and all direct and indirect project expenses. The cost of materials,
18 rentals, and direct and indirect expenses shall be included regardless of who pays the
19 costs or if they are donated. The "principal contract" is the agreement to perform the
20 entire scope of work for a construction project.

21 ~~(4)~~**(5)**(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 perform, or in any manner assume charge of the construction, alteration, repair,
24 improvement, movement, demolition, putting up, tearing down, furnishing labor, or
25 furnishing labor together with material or equipment, or installing material or
26 equipment for any of the following:

27 (i) Any building, highway, road, railroad, sewer, grading, excavation,
28 pipeline, public utility structure, project development, housing, or housing
29 development, improvement, or any other construction undertaking for which the
30 project value is fifty thousand dollars or more when the property is to be used for

1 commercial purposes.

2 (ii) Any new residential structure for which the project value is fifty thousand
3 dollars or more when the property is used for residential purposes.

4 (iii) Any improvements or repairs to an existing residential structure for
5 which the project value is seven thousand five hundred dollars or more.

6 (iv) Any mold remediation for which the project value is seven thousand five
7 hundred dollars or more.

8 (b) The term "contractor" includes persons who receive an additional fee for
9 the employment or direction of labor, or any other work beyond the normal
10 architectural or engineering services.

11 (c) A contractor holding a license in the major classification of hazardous
12 materials, or any subclassifications thereunder, is defined in terms of work
13 performed for which the project value is one dollar or more.

14 (d) "Contractor" does not mean any person, supplier, manufacturer, or
15 employee of such person who assembles, repairs, maintains, moves, puts up, tears
16 down, or disassembles any patented or proprietary equipment supplied by such
17 person to a contractor to be used solely by the contractor for a construction
18 undertaking. "Proprietary" means specific and specialized equipment installation,
19 manufacturing processes, used, or components that are protected from disclosure to
20 third parties by the owner or manufacturer of the equipment.

21 ~~(5)(6)~~ "Controlled access" means the complete building or facility area under
22 direct physical control within which an unauthorized person is denied access.

23 **(7) "Dwelling unit" means a single residential unit that provides**
24 **complete, independent residential living facilities for one or more persons,**
25 **where occupancy is primarily permanent in nature, including permanent**
26 **provisions for separate living.**

27 ~~(6)(8)~~ "Electrical contractor" means any person who undertakes to, attempts
28 to, or submits a price or bid or offers to construct, supervise, superintend, oversee,
29 direct, perform, or in any manner assume charge of the construction, alteration,
30 repair, improvement, movement, demolition, putting up, tearing down, or furnishing

1 labor together with material and equipment, or installing the same for the wiring,
 2 fixtures, or appliances for the supply of electricity to any residential, commercial, or
 3 other project, for which the project value is ten thousand dollars or more. This
 4 Paragraph is not deemed or construed to limit the authority of a contractor, general
 5 contractor, or residential contractor, as those terms are defined in this Section, nor
 6 to require such individuals to become an electrical contractor.

7 ~~(7)~~**(9)** "Employee" means a ~~worker whose employer~~ **person whose employer**
 8 **is required by law to deducts deduct** taxes from his wages and ~~reports report~~ his
 9 annual earnings to the Internal Revenue Service using a W-2 form.

10 ~~(8)~~**(10)** "Executive director" means the person appointed by the board to
 11 serve as the chief operating officer in connection with the day-to-day operation of
 12 the board's business. The executive director is the appointing authority for all
 13 employees of the board.

14 ~~(9)~~**(11)**(a) "General contractor" means a person who contracts directly with
 15 the owner. The term "general contractor" includes the term "primary contractor" and
 16 wherever used in this Chapter or in regulations promulgated thereunder "primary
 17 contractor" means "general contractor".

18 (b) "General contractor" does not mean any person, supplier, manufacturer,
 19 or employee of such person who assembles, repairs, maintains, moves, puts up, tears
 20 down, or disassembles any patented or proprietary equipment supplied by such
 21 person to a contractor to be used solely by the contractor for a construction
 22 undertaking.

23 ~~(10)~~**(12)** "Home improvement" means the reconstruction, alteration,
 24 renovation, repair, modernization, conversion, improvement, removal, or demolition,
 25 or the construction of an addition to any preexisting residential structure which
 26 building is used or designed to be used as a residence or dwelling unit, or to
 27 structures which are adjacent to such residence or building for which the project
 28 value is seven thousand five hundred dollars or more. "Home improvement " does
 29 not include services rendered gratuitously.

30 ~~(11)~~**(13)** "Home improvement contractor" means any person who undertakes

1 or attempts to undertake or submits a price or bid or offers to construct, supervise,
2 superintend, oversee, direct, perform, or in any manner assume charge of a home
3 improvement project for which the project value is at least seven thousand five
4 hundred dollars but less than fifty thousand dollars. A home improvement contractor
5 shall not perform any structural work that is integral to the structural integrity of any
6 new or existing structure, including but not limited to footings, foundations, outside
7 walls, skeleton, bearing columns and interior load bearing walls, floor slabs, or
8 roofing systems to any type.

9 ~~(12)~~**(14)** "License" means any form of license or registration the board is
10 authorized to issue in accordance with this Chapter.

11 **(15) "Manufactured home" and "manufactured housing" means a**
12 **factory-built residential dwelling unit constructed to standards and codes, as**
13 **promulgated by the United States Department of Housing and Urban**
14 **Development (HUD), under the National Manufactured Housing Construction**
15 **and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended. The**
16 **terms "manufactured home" and "manufactured housing" may be used**
17 **interchangeably and apply to structures bearing the permanently affixed seal**
18 **of the United States Department of Housing and Urban Development.**

19 ~~(13)~~**(16)** "Mechanical contractor" means any person who undertakes to,
20 attempts to, or submits a price or bid or offers to construct, supervise, superintend,
21 oversee, direct, perform, or in any manner assume charge of the construction,
22 alteration, repair, improvement, movement, demolition, putting up, tearing down, or
23 furnishing labor, or furnishing labor together with material and equipment, or
24 installing the same for the construction, installation, maintenance, testing, and repair
25 of air conditioning, refrigeration, heating systems, and plumbing for all residential,
26 commercial, and industrial applications as well as ventilation systems, mechanical
27 work controls, boilers and other pressure vessels, steam and hot water systems and
28 piping, gas piping and fuel storage, and chilled water and condensing water systems
29 and piping, including but not limited to any type of industrial process piping and
30 related valves, fittings, and components, for which the project value is ten thousand

1 dollars or more. A mechanical contractor who performs plumbing work for
 2 which the project value is ten thousand dollars or more shall possess a master
 3 plumber license issued by the State Plumbing Board of Louisiana. This
 4 Paragraph is not deemed or construed to limit the authority of a contractor, general
 5 contractor, or residential contractor, as those terms are defined in this Section, nor
 6 to require such individuals to become a mechanical contractor.

7 (17) "Mega project" means a commercial construction project for which
 8 the project value is five hundred million dollars or more, or a broadband
 9 project administered in accordance with the Broadband Equity, Access, and
 10 Deployment (BEAD) Program issued by the National Telecommunications and
 11 Information Administration of the United States Department of Commerce.

12 (18) "Modular home" and "modular housing" means a factory-built
 13 residential dwelling unit built to the International Residential Code as adopted
 14 by the Louisiana State Uniform Construction Code Council.

15 ~~(14)~~(19) "Mold remediation contractor" means any person who engages in
 16 removal, cleaning, sanitizing, demolition, or other treatment, including preventative
 17 activities, of mold or mold-contaminated matter that was not purposely grown at that
 18 location for which the project value is seven thousand five hundred dollars or more.
 19 Mold remediation applies only to the regulation of mold-related activities that affect
 20 indoor air quality and does not apply to routine cleaning when not conducted for the
 21 purpose of mold-related activities intended to affect indoor air quality.

22 ~~(15)~~(20) "Person" means any individual, firm, partnership, association,
 23 cooperative, corporation, limited liability company, limited liability partnership, or
 24 any other entity recognized by Louisiana law; and whether or not acting as a
 25 principal, trustee, fiduciary, receiver, or as any other kind of legal or personal
 26 representative, or as a successor in interest, assignee, agent, factor, servant,
 27 employee, director, officer, or any other representative of such person; or any state
 28 or local governing authority or political subdivision.

29 ~~(16)~~(21) "Plumbing contractor" means any person who installs, maintains,
 30 and repairs potable and nonpotable tap water or sewer systems ~~within~~ for a building

1 structure or residential structure, **including service lines**, for which the project value
2 is ten thousand dollars or more.

3 ~~(17)~~**(22)** "Principal" means an owner, shareholder, or an officer or director
4 of a corporation; a member or manager of a limited liability company; a general
5 partner of a partnership; a sole proprietor; a trustee; or a full-time employee with
6 similar operational control or significant influence with respect to any person as
7 determined by the board.

8 ~~(18)~~**(23)** "Qualifying party" means a natural person designated by the
9 contractor to represent the contractor for the purpose of complying with the
10 provisions of this Chapter including but not limited to meeting the requirements for
11 the initial license and any continuation thereof.

12 ~~(19)~~**(24)**(a) "Residential contractor" means any person who constructs a fixed
13 building or structure for sale or use by another as a residence or who, for a price,
14 commission, fee, wage, or other compensation, undertakes or offers to undertake the
15 construction or superintending of the construction of any residential structure which
16 is not more than three floors in height, to be used by another as a residence, for
17 which the project value is fifty thousand dollars or more. The term "residential
18 contractor" includes all persons who receive an additional fee for the employment
19 or direction of labor, or any other work beyond the normal architectural or
20 engineering services.

21 (b) "Residential contractor" includes both of the following:

22 (i) Any person bidding or performing home improvement for which the
23 project value is seven thousand five hundred dollars or more.

24 (ii) Any person performing the installation of a modular home with a value
25 equal to or greater than fifty thousand dollars for which the total project value shall
26 not include the cost of the component parts of the modular home in the condition
27 each part leaves the factory pursuant to R.S. 40:1730.71.

28 (c) "Residential contractor" does not include any person engaged in building
29 residential structures that are built to the United States Department of Housing and
30 Urban Development's construction standards for manufactured housing as outlined

1 at 42 U.S.C. 5401 et seq., or mounted on a metal chassis and wheels.

2 ~~(20)~~**(25)** "Residential roofing" means the construction, alteration, repair,
3 improvement, demolition, putting up, tearing down, furnishing labor, or furnishing
4 labor together with materials or equipment, or the installation of materials or
5 equipment for any phase of roofing specific to a residential structure for which the
6 project value is seven thousand five hundred dollars or more. **For the purposes of**
7 **residential roofing only, any structure or building that is primarily used as a**
8 **residence with no more than four separate dwellings incorporated into one**
9 **structure shall be considered a residential roofing project and subject to the**
10 **same licensure requirements.**

11 ~~(21)~~**(26)** "Residential roofing contractor" means any person who undertakes
12 to, attempts to, or submits a price or bid, or offers to construct, supervise,
13 superintend, oversee, direct, perform, or in any manner assume charge of a
14 residential roofing project for which the project value is seven thousand five hundred
15 dollars or more.

16 ~~(22)~~**(27)** "Residential structure" means a building or structure that is used
17 primarily for occupancy by a person as a residence. Such structures or buildings
18 include but are not limited to single family dwellings and duplexes which are not
19 more than three floors in height and structures that are part of or adjacent to the
20 building or structures to be used as a residence. A residential structure more than
21 three floors in height may be built by a person holding a building construction and
22 residential construction license.

23 ~~(23)~~**(28)** "Subcontract" means an agreement to perform a portion of the scope
24 of work contained in the principal contract including the entire cost of labor and
25 materials of that part of the principal contract which is performed by the
26 subcontractor.

27 ~~(24)~~**(29)(a)** "Subcontractor" means a person who contracts to perform a scope
28 of work that is a part of the scope of work contained in the principal contract.

29 (b) "Subcontractor" does not include any person, supplier, or manufacturer
30 who assembles, repairs, maintains, moves, puts up, tears down, or disassembles any

1 patented or proprietary equipment supplied by such person to a contractor to be used
2 solely by the contractor for a construction undertaking.

3 * * *

4 §2152. Domicile; officers

5 A. * * *

6 (2) Meetings of the board shall be subject to the Open Meetings Law. The
7 board may hold regular or special meetings outside of Baton Rouge at a location
8 within the state after proper notice has been provided to the public. Meetings outside
9 of Baton Rouge shall be held at a meeting space located in a public building and
10 open to the public for the purposes of the meeting. At least a majority of the regular
11 monthly meetings of the board each year shall be held in Baton Rouge.

12 **(3) Except as otherwise provided by law, all meetings of the board shall**
13 **be conducted in accordance with Robert's Rules of Order.**

14 * * *

15 §2155. Residential Contractors Subcommittee; membership; terms; powers; duties

16 * * *

17 G. Subject to the approval of the board, the residential subcommittee has all
18 of the following powers and duties:

19 * * *

20 (3) To prescribe and adopt regulations and policies for continuing education.
21 However, notwithstanding any other law to the contrary, the residential
22 subcommittee shall not approve for use by licensees any continuing education
23 courses or written training programs provided by **a member of the board or** a
24 member of the residential subcommittee or legal entity in which he has a controlling
25 interest.

26 * * *

27 **(6)(a) If the board receives a complaint that is based on a license or rule**
28 **violation, no proceeding may be instituted after five years from the date of the**
29 **act or omission. This period may be interrupted by the filing of procedural**
30 **motions or suspended as provided in this Paragraph.**

1 (3) Any and all funds collected pursuant to this Subsection shall be disbursed
 2 to the accredited public university or community college schools of construction
 3 management or construction technology by October first of each year upon
 4 completion of the annual audit of the board, less a two percent administrative fee
 5 to be retained by the board. The funds shall be used by the accredited public
 6 university or community college schools of construction management or construction
 7 technology solely for the benefit of their program and the expenditure of such funds
 8 shall be approved by the industry advisory council or board for the program. The
 9 funds collected pursuant to this Subsection shall be in addition to any other monies
 10 received by such schools and are intended to supplement and not replace, displace,
 11 or supplant any other funds received from the state or from any other source. Any
 12 school of construction management or construction technology that experiences a
 13 decrease in the funding appropriated to them by the accredited public university or
 14 community college as determined by the industry advisory council or board for the
 15 program shall be ineligible for participation under the provisions of this Subsection,
 16 and the monies from the fund for such school of construction management or
 17 construction technology shall be redistributed on a pro rata basis to all other
 18 accredited and eligible schools.

19 * * *

20 M. No license shall be issued to any domestic or foreign entity required to be
 21 registered with the secretary of state which does not hold a certificate of authority
 22 to do business in this state and is in good standing.

23 N. Except for the licenses, fees, and assessments authorized by this Chapter,
 24 and except for the occupational license taxes authorized by the constitution and laws
 25 of this state, and except for permit fees charged by parishes and municipalities for
 26 inspection purposes, and except for licenses required by parishes and municipalities
 27 for the purpose of determining the competency of mechanical, electrical, or
 28 plumbing contractors, ~~or both, and electrical contractors~~, no contractor shall be liable
 29 for any fee or license as a condition of engaging in the contracting business.

30 §2156.1. Requirements for issuance of a license

* * *

1
2 B.(1) An applicant **and a qualifying party** for a license or registration **shall**
3 **be a United States citizen or legal resident of the United States. An applicant**
4 shall submit a financial statement on a form supplied by the board, current to within
5 twelve months of the date of filing the application, prepared and signed by an
6 accountant, bookkeeper, or certified public accountant and signed by the applicant,
7 attesting the statement is true and correct. In lieu of a signature by a certified public
8 accountant on the board's form, a current financial statement prepared by a certified
9 public accountant may be attached.

* * *

10
11 D. **Notwithstanding any other provision of law to the contrary, criminal**
12 **background information in the possession of the State Licensing Board for**
13 **Contractors shall be confidential and shall not be disclosed to any person**
14 **outside of the agency, except as necessary for action on the application of the**
15 **applicant. However, any such record may be released to the public in an**
16 **administrative proceeding before the board, and any final determination made**
17 **by the board relative to the fitness of any person to receive or to continue to**
18 **hold a license issued by the board and any legal ground upon which such**
19 **determination is based shall be a public record as provided by R.S. 44:4(51).**
20 **The provisions of this Subsection shall not be construed to interfere or limit the**
21 **jurisdiction and oversight of the legislative auditor or the inspector general**

22 **E.(1) An applicant for licensure shall designate a qualifying party for each**
23 **classification and for the Louisiana business and law requirement. The qualifying**
24 **party shall meet all application requirements and shall satisfy any examination and**
25 **credential requirement. When the qualifying party is no longer associated with**
26 **the license, the board shall be notified within thirty days of the disassociation,**
27 **and another qualifying party shall qualify within sixty days.**

* * *

28
29 **E.F.(1) Residential construction and its subclassifications, mold remediation,**
30 **and home improvement applicants shall be required to submit certificates evidencing**

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

6 **(2) Proof of insurance coverage shall be provided by an agent, broker,**
 7 **or insurance company showing the name of the licensee, the name of the**
 8 **insurance company, the name and address of the insurance broker, the**
 9 **insurance policy number, the beginning and ending insurance coverage dates,**
 10 **no exclusions for the licensee's scopes of work for which he is licensed, and the**
 11 **board that is listed as a certificate holder.**

12 **(3) Coverage shall be for a minimum of six months and shall include all**
 13 **scopes of work for which an applicant is licensed to perform.**

14 **(4) The policy shall list the board as a certificate holder.**

15 ~~F.(1)~~**G.(1)** Notwithstanding any other provision of law to the contrary, any
 16 residential home improvement or mold remediation licensee in good standing with
 17 the board for not less than one consecutive year may apply to transfer the license to
 18 an inactive status.

19 (2) An inactive licensee shall follow the same renewal requirements as an
 20 active licensee as provided in this Chapter, including the payment of fees, with the
 21 exception of the submission of current insurance certificates.

22 (3) An inactive licensee shall be required to fulfill all prescribed continuing
 23 education requirements established for active licensees.

24 (4) A licensee may request transfer from inactive status to active status at any
 25 time, if:

26 (a) The inactive license has been renewed as provided for in this Section.

27 (b) The inactive license is current at the time the request is received by the
 28 board.

29 (c) The licensee submits the required insurance certificates as provided in
 30 Subsection E of this Section.

1 ~~G.H.~~ Before a license is issued, a mold remediation license applicant shall
2 be required to furnish evidence to the board that he has satisfactorily completed at
3 least twenty-four hours of training in mold remediation and basic mold assessment.

4 ~~H.(1)~~I.(1) Mechanical, plumbing, and electrical contractors licensed pursuant
5 to the provisions of this Section are excluded from local, municipal, or parish
6 regulatory authority examination procedures and may bid and perform work within
7 any local jurisdiction upon paying all appropriate fees.

8 (2) The purpose of this Subsection is to preempt local, municipal, or parish
9 regulatory examination authority for statewide-licensed mechanical, plumbing, or
10 electrical contractors bidding and performing work in multiple jurisdictions. The
11 preemption shall further exclude the employees of statewide-licensed electrical and
12 mechanical contractors from local, municipal, or parish regulatory examination or
13 certification authority as a condition to performing work for the statewide-licensed
14 electrical or mechanical contractor.

15 ~~I.(1)~~J.(1) Any plumbing contractor who currently holds a Master Plumber
16 License from the State Plumbing Board of Louisiana shall be exempt from any trade
17 examination requirement.

18 (2) Nothing in this Section shall be construed to permit plumbing contractors
19 to perform plumbing work without first complying with the licensure provisions of
20 Chapter 16 of this Title, R.S. 37:1361 et seq.

21 ~~J.K.~~ The board may consolidate, add, or remove subclassifications or
22 specialties by rule as it deems appropriate.

23 §2156.2. Requirements of a licensee; record keeping; duty to report

24 * * *

25 B. A licensee shall have a continuing duty to provide written notification to
26 the board within thirty calendar days of both of the following:

27 * * *

28 (2) Any criminal, civil, or administrative actions instituted or pending in any
29 jurisdiction against or involving the licensee, qualifying party, or any principal of
30 the licensee.

1 * * *

2 §2156.4. Residential roofing

3 * * *

4 **D. For purposes of residential roofing only, any structure or building**
5 **used as a residence and containing no more than four separate dwelling units**
6 **within a single structure shall be considered a residential roofing project and**
7 **shall be subject to the same licensure requirements.**

8 §2157. Exemptions

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

10 * * *

11 (15) The following persons are exempt from home improvement licensure:

12 * * *

13 (b) Persons licensed as a ~~building construction contractor~~ or residential
14 contractor.

15 * * *

16 (17) Any person performing work as a subcontractor for a residential
17 construction license holder, except for electrical, mechanical, plumbing, mold
18 remediation, **water wells**, asbestos, or hazardous materials scopes of work. **The**
19 **subcontractor shall contract directly with the residential license holder.**

20 ~~(18) Any person performing home improvement work for a building~~
21 ~~construction license holder, except for electrical, mechanical, plumbing, mold~~
22 ~~remediation, asbestos, or hazardous material scopes of work.~~

23 ~~(19) Electrical, mechanical, and plumbing licensees who are acting~~
24 ~~exclusively within the scope of their classification.~~

25 * * *

26 §2158. Revocation and suspension of licenses; issuance of cease and desist orders;
27 debarment; violations; penalty; criminal penalty

28 A. No person may engage in the business of contracting, or act as a contractor
29 as defined in this Chapter, unless he holds an active license as a contractor in
30 accordance with the provisions of this Chapter. The board and residential

1 subcommittee may revoke, suspend, or refuse to renew a license; issue cease and
 2 desist orders to stop work; issue fines and penalties; or debar any person licensed
 3 pursuant to the provisions of this Chapter for any of the following violations:

4 * * *

5 **(24) Failure to comply with the provisions of the Louisiana Underground**
 6 **Utilities and Facilities Damage Prevention Law, R.S. 40:1749.11 et seq.**

7 **(25) Damaging or altering the property of any person with the intent to**
 8 **induce that person to enter into a contract.**

9 **(26) Failure to pay for materials or services rendered in connection with**
 10 **operating as a contractor when the contractor has received sufficient funds as**
 11 **payment for the construction work, project, or operation for which the services**
 12 **or materials were rendered or purchased.**

13 **(27) Making a material misrepresentation of fact in any application for**
 14 **a permit required by state, municipal, or parochial law.**

15 * * *

16 C. In the event of a revocation of a license or a qualifying party status, the
 17 person or qualifying party shall be ineligible to apply for a license or qualifying party
 18 status for three years following the revocation. **Any person applying for a license,**
 19 **or qualifying party status after expiration of the three years following the**
 20 **revocation, shall appear before the board for approval of the issuance of a**
 21 **license or qualifying party status.**

22 * * *

23 E. ~~Any party to the proceeding who is aggrieved by the action of the board~~
 24 ~~may appeal the decision in accordance with the Administrative Procedure Act, R.S.~~
 25 ~~49:950 et seq.~~ **Any party aggrieved by a final decision or order of the board in**
 26 **an adjudication proceeding may appeal the action of the board by filing a**
 27 **petition within thirty days of the final decision or order in the Nineteenth**
 28 **Judicial District Court. Upon request by the aggrieved party for a stay of**
 29 **enforcement or effect of the board's order pending review, the aggrieved party's**
 30 **request for stay shall be set by the court for hearing with no less than ten days**

1 prior written notice to the board or the attorney representing the board. After
 2 hearing the request for stay, the court shall determine whether to stay the final
 3 order or decision of the board pending review of the appeal. Upon making its
 4 determination, the court shall then enter an order accordingly.

5 * * *

6 G.(1) All documents and records of any applicant or licensee and all
 7 investigative material regarding any alleged violations or violations of any
 8 licensee shall be exempt from production under the Public Records Laws,
 9 pursuant to R.S. 44:1 et seq., except when introduced as evidence in an
 10 administrative hearing held by the board.

11 (2) The board's staff shall produce and publish the names, addresses,
 12 contact information, and license information of all current licensees.

13 * * *

14 §2159.1. Contracting; prohibited acts; property insurance

15 A. The following acts are prohibited by persons performing contracting
 16 services:

17 (1) Interpreting insurance policy provisions regarding coverage or duties
 18 under an insured's property insurance policy or advertising or soliciting such
 19 services. A contractor shall be considered to have violated the provisions of this
 20 Paragraph if a person working on behalf of the contractor including but not limited
 21 to a compensated employee or a nonemployee who is compensated by the contractor
 22 violates the provisions of this Paragraph.

23 (2) Adjusting a property insurance claim on behalf of an insured as a public
 24 adjuster, as defined in R.S. 22:1692, or advertising or soliciting such services. A
 25 contractor shall be considered to have violated the provisions of this Paragraph if a
 26 person working on behalf of the contractor, including but not limited to a
 27 compensated employee or a nonemployee who is compensated by the contractor,
 28 violates the provisions of this Paragraph.

29 (3) Providing an insured with an agreement authorizing remediation, repairs,
 30 or construction ~~without~~ prior to and without first providing a good faith estimate

1 of the itemized and detailed costs of services and materials for **remediation**, repairs,
2 **or construction to be** undertaken pursuant to a **an insured** property damage claim.

3 A contractor shall be considered to have violated the provisions of this Paragraph if
4 a person working on behalf of the contractor including but not limited to a
5 compensated employee or a nonemployee who is compensated by the contractor
6 violates the provisions of this Paragraph. A contractor does not violate this Paragraph
7 if, as a result of the insurer adjusting a claim, the actual cost of repairs differs from
8 the initial estimate.

9 (4) Sharing in any legal fee earned by an attorney.

10 (5) Requiring an insured to sign an attorney representation agreement on
11 behalf of an attorney.

12 (6) Accepting a fee, commission, or other valuable consideration, regardless
13 of form or amount, in exchange for a referral by the person or company to an
14 attorney or law firm.

15 (7) Advertising or soliciting as insurance claims specialists.

16 (8) Advertising or soliciting as providing any insurance claim or policy
17 interpretation related services to an insured.

18 **(9) Assignment of benefits.**

19 **B. For the purposes of this Section, "assignment agreement" means any**
20 **instrument by which post-loss benefits under a residential or commercial**
21 **property insurance policy, including but not limited to any right of action**
22 **against the insurer or any proceeds acquired from the insurer, are assigned,**
23 **transferred, or otherwise acquired, in whole or in part, to or from a person**
24 **providing services, including but not limited to inspecting, protecting, repairing,**
25 **restoring, or replacing the property or mitigating against further damage to the**
26 **property.**

27 **C.(1) No person shall solicit or accept an assignment, in whole or in part,**
28 **of any post-loss insurance benefit under a residential or commercial property**
29 **insurance policy. Any such assignment agreement shall be against public policy**
30 **and void.**

1 **(2) The provisions of Paragraph (1) of this Subsection shall not apply to**
 2 **any of the following:**

3 **(a) An assignment, transfer, pledge, or conveyance granted to a federally**
 4 **insured financial institution, mortgagee, or subsequent purchaser of the**
 5 **property.**

6 **(b) Liability coverage under a residential or commercial property**
 7 **insurance policy.**

8 **D. Any violation of Subsection C of this Section shall constitute an unfair**
 9 **or deceptive trade practice and subject the violator to any action and penalty**
 10 **pursuant to R.S. 22:1969.**

11 **E. The provisions of Civil Code Article 2652 shall not apply to this**
 12 **Section.**

13 **F. Nothing in this Section shall be construed to prohibit an attorney from**
 14 **collecting a contingency fee, pursuant to R.S. 37:218 and the Rules of**
 15 **Professional Conduct of the Louisiana State Bar Association, for an action**
 16 **related to a property insurance claim.**

17 * * *

18 **§2163.1. Records and evidence; civil subpoenas**

19 **The board's papers, documents, reports, or evidence related to the**
 20 **subject of an investigation in accordance with this Chapter shall not be subject**
 21 **to disclosure until the completion of the investigation. Such papers, documents,**
 22 **reports, or evidence relative to the subject of an investigation in accordance**
 23 **with this Chapter shall not be subject to subpoena until the investigation has**
 24 **concluded and any violations have been adjudicated at a hearing before the**
 25 **board, unless a court of competent jurisdiction determines the agency and the**
 26 **person who is the subject of the investigation would not be necessarily hindered**
 27 **by such subpoena. Board personnel shall not be subject to subpoena for a civil**
 28 **action by any court of this state to testify concerning any matter of which they**
 29 **have knowledge pursuant to a pending investigation. Nothing in this Section**
 30 **shall be construed to interfere with or limit the jurisdiction and oversight of the**

1 **legislative auditor or the inspector general.**

2 §2164. Violations; civil penalty; jurisdiction

3 A. Any person who violates any provision of this Chapter shall, after notice
4 and a hearing, be liable to the board for a fine of up to ten percent of the total
5 contract or the value of the work bid or being performed for which there is a
6 violation. ~~In addition to the fine, the board may impose administrative costs and~~
7 ~~attorney fees for each offense.~~ **For violations of this Chapter for which a value**
8 **cannot be determined or does not apply, the violator shall be liable to the board**
9 **for a fine of not more than ten thousand dollars. In addition to the fine, the**
10 **board may impose administrative costs and attorney fees for each offense.** In
11 determining the amount of the administrative ~~penalty~~ **costs**, the board or residential
12 subcommittee shall consider **the efforts expended by the board's staff in**
13 **investigating and prosecuting the violation**, the circumstances and seriousness of
14 the violation, cooperation on the part of the contractor, and the history of previous
15 violations.

16 B. A monetary penalty assessed by the board or the residential subcommittee
17 is payable within ninety days or as provided by law. Failure to pay an outstanding
18 penalty may be cause to deny issuance or renewal of a license or registration **or**
19 **suspension of license** and may be subject to collection efforts as provided by law.

20 * * *

21 I. All fines or penalties, **except for a four percent administrative fee,**
22 collected by the board pursuant to the provisions of this Section for violations of any
23 provision of this Chapter shall, annually, at each audit of the board, be transferred
24 to a separate contractor's educational trust fund to be used for educational purposes
25 as determined by the trustees of the fund. The Construction Education Trust Fund
26 shall make an audited financial report to the board annually.

27 * * *

28 **L. A licensee shall maintain a current email address on file with the**
29 **board for purposes of receiving all board correspondence, including but not**
30 **limited to notices, actions, and requests for information. Such correspondence**

1 **shall be considered received upon receipt of an email delivery confirmation by**
2 **the board.**

3 Section 2. R.S. 37:2157(A)(19) is hereby repealed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____