

Technical Advisory

TA 332

January 9, 2018

Subject: 2017 Regular Session HB440-Act 231: New Requirements for Contractors, Including Certain Insurance Information.

Background: After the August 2016 floods, lots of “new” contractors went into business to make flood damage repairs. Some of these “new” contractors left a lot of homeowners with unfinished work and unpaid bills. In an effort to increase protections for homeowners against unqualified contractors, the 2017 Regular Session of the Louisiana Legislature amended three different sections of the statutes related to contractors (Title 37, Chapter 24), to include a provision that contractors shall provide “***current insurance certificates evidencing the amount of liability insurance maintained and proof of workers' compensation coverage***” in writing to persons with whom they contract.

Main Points: The 2017 Regular Session legislation was **HB440 – Act 321**, and became effective August 1, 2017.

Below are excerpts from the three sections of Title 37, Chapter 24, which were added or amended by the new legislation. Note the standard format for new legislation:

Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

**Louisiana Statutes
Title 37 – Professions and Occupations
Chapter 24 - Contractors**

37:2171.3. Notification of name, license number, and classification; evidence of required insurance

A. Any person required to be licensed pursuant to R.S. 37:2167 or registered pursuant to R.S. 37:2175.2 shall provide, in writing to the party with whom he has contracted to perform contracting services, his name, contracting license number, classification, **and current insurance certificates evidencing the amount of liability insurance maintained and proof of workers' compensation coverage, regardless of whether such information is requested by the contracting party for whom the work is to be performed.**

B. Failure by any person required to be licensed pursuant to R.S. 37:2167 or registered pursuant to R.S. 37:2175.2 to comply with the provisions of this Section shall

be deemed a willful failure to comply with the provisions of this Chapter pursuant to R.S. 37:2158(A)(3).

C. Any person required to be licensed pursuant to R.S. 37:2167 or registered pursuant to R.S. 37:2175.2 shall produce to the appropriate permitting authority evidence of a license or registration in good standing prior to the issuance of any permit required by law.

37:2175.1. Home improvement contracting; written contract required; right to cancel

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

(1) The complete agreement between the owner and the contractor and a clear description of any other documents which are or shall be incorporated into the agreement, including current insurance certificates evidencing the amount of liability insurance maintained and proof of workers' compensation coverage by any person required to be licensed pursuant to R.S. 37:2167 or registered pursuant to R.S. 37:2175.2.

37:2175.3. Home improvement contracting; prohibited acts; violations

A. The following acts are prohibited by persons performing home improvement contracting services:

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

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

(3) Failing to credit the owner any payment they have made to the home improvement contractor in connection with a home improvement contracting transaction.

(4) Making any material misrepresentation in the procurement of a contract or making any false promise likely to influence, persuade, or induce the procurement of a contract.

(5) Violation of the building code of the state or municipality.

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

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

(8) Making a false representation that the person is a state licensed general contractor.

(9) Failing to ~~possess any insurance required by federal law~~ provide, in writing to the party with whom he has contracted to perform contracting services, his name, registration number, and current insurance certificates evidencing the amount of liability insurance maintained and proof of workers' compensation coverage, regardless of whether such information is requested by the contracting party for whom the work is to be performed.

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

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

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

(11) Failing to obtain any insurance required by federal law.

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

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

Necessary Action: Circulate this Technical Advisory to all appropriate agency staff. An excellent source for access to Louisiana statutes, as well as Legislative information, is available at the website of the [Louisiana Legislature](http://www.louisiana.gov).

Disclaimer: Please note that this Technical Advisory is intended to be educational and is not legal advice upon which you should rely. Please seek any legal opinion you may need from a qualified attorney.