

State and Local Government
in Louisiana: An Overview
2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part G. Business and Labor
Economic Development

Administration

Louisiana Department of Economic Development

The Department of Economic Development, the state's chief economic development agency, is specifically charged with the responsibility of fostering the growth of industry and other commercial enterprises in Louisiana that will contribute to the overall improvement of the economy of the state. The department also is required to promote the advantages of Louisiana to out-of-state business and industry, facilitate the expansion of existing enterprises, and coordinate with other state agencies and units of local government plans and programs aimed at developing optimum conditions for new and expanding industrial and commercial enterprises in Louisiana. (R.S. 36:101(B)) The department is advised by a board known as the State Board of Commerce and Industry which shall exercise the powers delegated to it by Article VII, Section 21(F), of the Constitution of Louisiana. (R.S. 51:923)

Louisiana Economic Development Corporation (LEDC)

The Louisiana Economic Development Corporation serves as the single review board for all financial assistance, grants, and investment programs administered by the department, excluding those financial incentive programs administered by the State Board of Commerce and Industry. The corporation also has the power, authority, and duty to examine the impediments to the success of Louisiana small businesses from time to time and to adjust existing programs and develop financial programs that will alleviate such impediments. All programs of the corporation are to be administered pursuant to rules promulgated and adopted in accordance with the Administrative Procedure Act. (R.S. 51:2311 et seq.)

Programs

Small Business Assistance

R.S. 51:941 et seq. establishes the small and emerging business development program within the Louisiana Department of Economic Development. The goal of the program is to "provide for the increased opportunity for small and emerging businesses to become competitive in a modern economy without regard to race or gender." The following is a list of assistance available to small businesses in Louisiana through the Louisiana Department of Economic Development:

- Bonding Assistance Program

The Bonding Assistance Program provides assistance with new bond guarantees to small businesses in Louisiana. The program is available for qualified companies who have never been bonded, and for companies that have been bonded but are increasing bonding capacity. Bond underwriting is accomplished by the surety company, and the surety company has final bonding approval authority. Once the surety has given final bonding approval, the Bonding Assistance Program provides collateral in the form of an irrevocable letter of credit to the surety company of up to twenty-five percent of the base contract amount, or two hundred thousand dollars, whichever is less, on a project-specific basis. The applicant must be a certified small and emerging business development client.

- Contract Loan Program

The Contract Loan Program provides loan participations and guarantees to banks for government contract loans to help businesses finance working capital for contracts with local, state, or federal government agencies. This program is administered by the Louisiana Economic Development through Louisiana Economic Development Corporation.

- Hudson Initiative

The Hudson Initiative is a race- and gender-neutral program that encourages state agencies and contractors who receive state contracts to work with certified small entrepreneurs to provide small businesses with greater access to state procurement and public contract opportunities.

- Micro Loan Program

The Micro Loan program provides loan guarantees and participations to banks for micro business loans with the goal of stimulating the flow of private capital, long-term loans, and other financial assistance for financing which are necessary for the development of small business concerns in Louisiana. The program provides up to eighty percent guarantees and state participations up to fifty percent for banks that fund loans from five thousand to fifty thousand dollars. This program is administered by Louisiana Economic Development through Louisiana Economic Development Corporation.

- Microenterprise Development Program

The Louisiana Department of Economic Development and the Louisiana Department of Social Services created the Microenterprise Development Program to provide self-employment training which will give entrepreneurs the competitive advantage they need to succeed. The first step of the program is a comprehensive assessment. Once the assessment is complete, participants begin a two- to three-month business development course that includes entrepreneurship training, personal effectiveness, financial literacy, and technical assistance. The course also includes the writing of a business plan. Successful completion of the program and application process gives participants the eligibility to apply for seed funding to assist in supplementing business startup costs.

- Small and Emerging Business Development Program

This program allows small businesses to help themselves by assisting with entrepreneurial training, legal needs, marketing, computer skills, and accounting. A business must be certified through the small and emerging business development program to obtain these services which are offered by small business development centers, universities, and consultants in Louisiana's rural and urban areas.

- Small Business Loan Program

The Small Business Loan Program provides loan guarantees and participations to banks in order to facilitate capital accessibility for businesses and to provide financial assistance, which will help with the development, expansion, and retention of Louisiana's small businesses. The program provides guarantees up to seventy-five percent of the loan amount, not to exceed a maximum of one and a half million dollars, and loan participations of up to forty percent. This program is administered by Louisiana Economic Development through Louisiana Economic Development Corporation.

Veteran-Owned Small Business Assistance Programs

The Louisiana Department of Economic Development administers a veteran initiative program to encourage state agencies and contractors who receive state contracts to work with certified veteran-owned and service-connected, disabled veteran-owned small businesses in order to provide these small businesses with greater access to state procurement and public contract opportunities.

Tax Credit, Rebate, and Exemption Programs

The Louisiana Department of Economic Development also administers and oversees a range of tax exemption and tax credit and rebate programs including but not limited to the Angel Investor Tax Credit, the Enterprise Zone, Gulf Opportunity Zone, Quality Jobs, Industrial Tax Exemption, and the Motion Picture Industry Development Tax Credit.

Part G. Business and Labor Commerce

Consumer Protection

Louisiana Attorney General's Office, Public Protection Division, Consumer Protection Section

The Louisiana Attorney General's Office, public protection division provides legal services in the areas of consumer protection and environmental law, insurance receivership and fair housing. The consumer protection section has the responsibility of enforcing the consumer protection laws of Louisiana.

In the "Unfair Trade Practices and Consumer Protection Law", the consumer protection section was granted authority to conduct investigations as necessary when the attorney general has reason to believe an unfair or deceptive trade practice has taken place, is taking place or is about to take place. The section also conducts consumer awareness seminars throughout Louisiana on such topics as shoplifting, fraud, theft, and other deceptive trade practices. The consumer protection section is also charged with the duty of enforcing the antitrust and related laws relative to the regulation of trade and commerce, including but not limited to, the protection of the welfare of small business interests and the interests of any persons injured by antitrust violations and conspiracies in restraint of trade and other patterns of organized business extortion and theft.

One major focus of the consumer protection section is the mediation and investigation of consumer complaints and inquiries. The consumer protection section acts on behalf of Louisiana consumers at large when a business is operating unfairly or deceptively. However, when individual disputes arise in business transactions, the consumer protection section mediators will try to resolve complaints between an individual consumer and a business.

The consumer protection section handles complaints regarding the following issues: automobiles, telemarketing, landlord and tenant, credit, collection agencies, home improvement and construction, home appliances and furnishings, health clubs, travel, charitable solicitations, sweepstakes, work-at-home programs, and multilevel marketing/business opportunities.

The consumer protection section does not handle complaints regarding: utility companies, cable companies, cellular telephones, insurance claims, elected or public officials, state or municipal agencies, child support claims, employee and employer disputes, or licensed professionals. If the consumer protection section receives a complaint that it does not handle, the section will refer it to the proper agency.

Unfair Trade Practices

The "Unfair Trade Practices and Consumer Protection Law", located at R.S. 51:1501 et seq., provides that "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." R.S. 51:1404 authorizes the Louisiana Attorney General's Office, public protection division, consumer protection section

to investigate, conduct studies and research, and to conduct public or private hearings into commercial and trade practices in the distribution, financing, and furnishing of goods and services to or for the use of consumers. Under R.S. 51:1407, whenever the attorney general has reason to believe that any person is using, has used, or is about to use any method, act, or practice declared by R.S. 51:1405 to be unlawful, he may bring an action for injunctive relief in the name of the state against such person to restrain and enjoin the use of such method, act, or practice.

Deferred Presentments and Small Loans ("Payday loans")

The "Louisiana Deferred Presentment and Small Loan Act" is located at R.S. 9:3578.1 et seq. The act covers loans of three hundred and fifty dollars or less. R.S. 9:3578.4 regulates the fees that a lender may charge including the maximum interest rate allowed under law. R.S. 9:3578.4 also authorizes the lender to charge a fee not to exceed sixteen and seventy-five one hundredths percent of the face amount of the check issued or in the case of a small loan, the equivalent rate of interest, provided however that such fee or interest does not exceed forty-five dollars, regardless of the name or type of charge. However, if the loan remains unpaid at contractual maturity, the lender may charge an amount equal to the rate of thirty-six percent per annum for a period not to exceed one year. Beginning one year after contractual maturity, the rate shall not exceed eighteen percent per annum.

Deferred presentments and small loans lenders are licensed and regulated by the office of financial institutions, non-depository division. Other programs licensed and regulated by the office of financial institutions, non-depository division, are bond for deed escrow agencies, check cashers, non-real estate consumer loan brokers, licensed lenders for non-real estate loans, notification filers for consumer credit sales and out-of-state consumer loan assignees, pawnbrokers, repossession agents, and residential mortgage lending.

Gift Certificates and Gift Cards

The Federal Reserve recently promulgated rules to provide important protections for certain gift cards sold on or after August 22, 2010. Under the rule change, the money on a gift card shall be good for at least five years from the date the card is purchased. Any money that might be added to the card at a later date shall also be good for at least five years. Also under the rule change, all fees are to be clearly disclosed on the gift card or its packaging. Gift card fees are also limited. Generally, fees can be charged if the card has not been used for at least one year and you are only charged one fee per month. These restrictions apply to fees such as: dormancy or inactivity fees for not using your card, fees for using your card, fees for adding money to your card, and maintenance fees. A consumer may still be charged a fee to purchase the card and certain other fees, such as a fee to replace a lost or stolen card. These rule changes only apply to store gift cards which can be used only at a particular store or group of stores and gift cards with a MasterCard, Visa, American Express, or Discover brand logo which can generally be used wherever the brand is accepted. The new rules do not apply to reloadable prepaid cards that are not intended for gift-giving purposes or cards that are given as a reward or as part of a promotion. Regardless, a consumer must be clearly informed of any expiration dates or fees for these cards.

There are also existing state law regarding gift certificates and gift cards and it is more stringent in some instances, such as a prohibition on fees, than federal law. R.S. 51:1423 prohibits any person or entity from selling a gift certificate or gift card with an expiration date that is less than five years from the date of issuance. The expiration date must be printed in capital letters in at

least ten-point font on the gift certificate or gift card. R.S. 51:1423 also prohibits a gift certificate or gift card from being subject to a service fee, including but not limited to a dormancy fee. The issuer may charge a one-time handling fee, which shall not exceed one dollar per gift certificate or gift card. R.S. 51:1423 does not apply to the following types of gift certificates or gift cards: gift certificates and gift cards that are distributed by the issuer to a consumer pursuant to an awards loyalty or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer, gift certificates that are sold below face value or donated to nonprofit and charitable organizations for fundraising purposes, and general use prepaid cards as defined in Title IV of the Credit Card Accountability, Responsibility, and Disclosure Act of 2009, 15 U.S.C. 1693 et seq., which are issued by federally insured depository institutions.

Violations of R.S. 51:1423 are to be considered unfair trade practices. Complaints regarding violations may be made to the Attorney General's Public Protection Division Consumer Protection Section for mediation and assistance.

Contractors

Contractor Licensing Thresholds

Louisiana law requires a contractor to be licensed by the State Licensing Board for Contractors before undertaking a construction project for which the entire cost is fifty thousand dollars or more when the property is to be used for commercial purposes other than a single residential duplex, a single residential triplex, or a single residential fourplex. The licensing threshold for an electrical contractor and a mechanical contractor is ten thousand dollars for any residential, commercial, industrial, or other project.

Under R.S. 37:2167, a residential building contractor is required to hold a residential building contractor license from the board before undertaking a residential project when the cost of the project exceeds seventy-five thousand dollars. R.S. 37:2175.2 requires a contractor performing home improvement contracting to register with the board prior to providing home improvement contracting services in an amount in excess of seventy-five hundred dollars, but not in excess of seventy-five thousand dollars.

A contractor who applies for a state contractor's license to bid and perform plumbing work must also have a valid license from the Louisiana State Plumbing Board. A plumbing contractor who currently holds a state license from the plumbing board shall be exempt from any state contractor licensing requirement for passage of an additional examination in that license classification and may bid and perform plumbing work statewide after making application to the contractors' licensing board for an exemption.

Plumbers

Louisiana law defines a "master plumber" as a person who possesses the necessary qualifications and knowledge to plan and lay out plumbing systems and who supervises journeyman plumbers in the installation, alteration, or repair of plumbing system.

A "journeyman plumber" is defined as a person who possesses the necessary qualifications and knowledge to install, alter, or repair plumbing systems, is supervised by a master plumber, and is in the employ of an employing entity. A journeyman plumber may engage in the art of plumbing only when he is under the supervision of a master plumber licensed by the Louisiana

State Plumbing Board. A journeyman plumber may, however, repair existing plumbing independently and without the supervision of a master plumber.

An "apprentice plumber" is defined as a person engaged in learning the plumbing trade by working under the direct on-the-job supervision of a journeyman plumber and in the employ of an employing entity. Apprentice plumbers are required to be indentured in an apprenticeship program approved by the Louisiana Workforce Commission. Apprentices may engage in the art of plumbing only when they are under the direct constant, on-the-job supervision of a licensed journeyman plumber. Direct, constant on-the-job supervision is defined by the law to mean that a licensed journeyman plumber will supervise apprentices as governed by the Louisiana Workforce Commission. Prior to 2003, the law authorized a licensed journeyman plumber to supervise no more than one apprentice on only one job at a time. The law was changed to the current language in 2003 by Act 815 of the 2003 Regular Session. Current Louisiana Workforce Commission policy is that a journeyman plumber shall supervise no more than one apprentice at a time. The current administrative rules of the plumbing board contain the same ratio.

Complaints and Remedies (New Home Warranty Act)

Complaints regarding contractors should be directed to the compliance division of the Louisiana State Licensing Board for Contractors. Complaints regarding plumbers should be directed to the Louisiana State Plumbing Board. Complaints regarding inspections of homes or businesses for construction code compliance should be directed to the Louisiana State Construction Code Council.

The "New Home Warranty Act" can be found at R.S. 9:3141 et seq. The act establishes mandatory warranties for the purchasers and occupants of new homes in Louisiana and provides for the use of homeowners' insurance as additional protection for the public against defects in the construction of new homes. Under the act, every builder warrants the following to the owner:

- (1) One year following the warranty commencement date, the home will be free from any defect due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.
- (2) Two years following the warranty commencement date, the plumbing, electrical, heating, cooling, and ventilating systems exclusive of any appliance, fixture, and equipment will be free from any defect due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.
- (3) Five years following the warranty commencement date, the home will be free from major structural defects due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.

R.S. 9:3147 authorizes all or part of the builder's obligation under any warranty required by the act to be insured by the builder for the benefit of the purchaser through an insurance company authorized to transact business in Louisiana. R.S. 9:3148 provides that any warranty imposed under the act and any insurance benefit shall automatically transfer without charge, to a subsequent owner who acquires title to the home. The transfer of the home shall not extend the duration of any warranty or insurance coverage. Under R.S. 9:3149, if a builder fails to perform as required by the warranties, any affected owner shall have a cause of action against

the builder for actual damages, including attorney fees and court costs, arising out of the violation. The damages with respect to a single defect shall not exceed the reasonable cost of repair or replacement necessary to cure the defect, and damages with respect to all defects in the home shall not exceed the original purchase price of the home.

State Licensing Board for Contractors

The Louisiana State Licensing Board for Contractors was created as it exists today in 1956 by Act 233 of the legislature and its laws can be found in R.S. 37:2150 through 2192. It is a fifteen member board, appointed by the governor, which regulates both commercial and residential contractors who bid or perform construction projects, whose value exceeds fifty thousand dollars or more for commercial projects, ten thousand dollars or more for electrical or mechanical projects, seventy-five thousand or more for residential projects, and hazardous material contractors on projects valued at one dollar or more.

The staff of the board receives and processes applications for new contractor licenses, additional classifications, changes of license records, and annual license renewals. The board also administers business and law and trade examinations for contractor applicants and qualifying parties. Administrative and disciplinary hearings are conducted monthly for alleged violations by both commercial and residential contractors. Board investigators conduct construction project investigations to determine compliance and enforcement of the contractor licensing law. All board meetings and administrative hearings are conducted at the board's Baton Rouge headquarters.

Fines and penalties levied against violators of the contractor licensing law are sent directly to the Contractors Educational Trust Fund, whose mission is to promote programs used for contractor educational purposes.

Louisiana State Plumbing Board

The Louisiana State Plumbing Board is an eight member board who enforces the plumbing law located at R.S. 37:1361 through 1380. The board does not have any reciprocity agreements with other states; however, if an individual has a valid plumbing license in another state, that individual may use it to qualify to take the journeyman plumber exam in Louisiana in lieu of the required vouchers. Once that individual obtains a journeyman plumber license, the individual may apply to take the master plumber exam.

In addition to the master and journeyman plumber licenses, the State Plumbing Board also issues water supply protection specialist endorsements, medical gas installer licenses, and medical gas verifier licenses. The board also investigates complaints against plumbers and plumbing service providers.

Life Safety and Property Protection

Fire Safety Standards

R.S. 40:1578.6 establishes the Life Safety Code of the National Fire Protection Association (NFPA 101), and Section 518 - Special Provisions for High Rise, of Chapter IV of the Southern Standard Building Code, applicable to high rise structures, as both are annually or periodically amended, as the minimum fire safety construction standards. A parish or municipality which, prior to January 1, 1975, had adopted and is enforcing a nationally recognized model building

code or fire prevention code or the equivalent may continue to enforce those codes as long as the codes contain requirements that are substantially equal to the fire marshal's code with respect to high rise buildings, mandatory automatic sprinkler and extinguishment systems, and fire detection systems. Newly adopted versions of the Life Safety Code do not apply to existing buildings which were lawfully constructed and maintained unless the fire marshal deems that a serious life hazard exists due to a particular condition, at which time he can require the institution of proper fire protection measures to alleviate the particular hazards according to the chapter on existing buildings of the latest adopted edition of the Life Safety Code.

R.S. 40:1578.7 adopted the National Fire Prevention Code (NFPA 1), as it is published by the National Fire Protection Association, as the state uniform fire prevention code to the extent that it does not conflict with the National Fire Protection Association's Life Safety Code. If any political subdivision of the state adopts a fire prevention code, it must adopt the state uniform fire prevention code. The state fire marshal is authorized to promulgate those rules and regulations as may be necessary to incorporate or adopt any subsequent amendments or additions to the state uniform fire prevention code to conform to NFPA 1, as it is subsequently amended or issued as a new edition by the National Fire Protection Association. If the governing authority of a local jurisdiction finds that the state uniform fire prevention code does not meet its minimum needs, that local governing authority may provide more stringent requirements than those specified in the state uniform fire prevention code when such requirements are based upon local climatic, geologic, topographic, or public safety factors after prior review and approval by the state fire marshal to ensure that such variances achieve equivalent or enhanced levels of protection as the state uniform fire prevention code. The mandatory local fire code provisions do not apply to any political subdivision that adopted a model fire prevention code on or prior to July 9, 1999, including review and approval by the state fire marshal of any future amendments, additions, or new editions of the model fire prevention code adopted by the political subdivision.

Life Safety Plan Review

R.S. 40:1574 provides that no structure, watercraft, or movable shall be constructed and no repair, remodeling, or addition shall be made to any structure, watercraft, or movable affecting the exits, stairs, seating arrangement, fire protection, or other such details of construction until building plans and specifications have been submitted to and reviewed by the fire marshal and appear to him to satisfactorily comply with the laws, rules, regulations, and codes of the state. The state fire marshal may take into consideration practical difficulties and unreasonable economic hardships before applying the strict requirements of the law. In cases of practical difficulty or unreasonable economic hardship, the state fire marshal may, upon appeal, allow alternative arrangements provided a minimum acceptable level of life safety is achieved to the satisfaction of the state fire marshal. In order to encourage historic preservation and the preservation of Louisiana's architectural heritage, when applying the requirements of the adopted fire, life safety, or handicapped accessibility regulations, the state fire marshal may take into consideration the impact of these requirements on the historic integrity of existing facilities.

Life Safety Inspections

R.S. 40:1563 confers on the fire marshal the duty to "take all steps necessary and proper to protect life and property from the hazards of fire and of panic which may arise from fire or from the threat of fire or explosion." It also provides that the fire marshal shall supervise the inspection of all structures, except one- and two-family dwellings and movables, for the purpose of reducing or eliminating fire hazards. R.S. 40:1563 prohibits the fire marshal from conducting

or supervising inspections within the jurisdiction of any local governing authority in which a fire prevention bureau has been properly established by special ordinance and accompanying resolution unless specifically requested by the fire prevention bureau or the local governing body of that jurisdiction or upon complaint of any citizen. The fire marshal may, at his discretion, report any complaint received from a citizen to the appropriate fire prevention bureau or conduct a joint inspection with the fire prevention bureau. The fire marshal retains responsibility for all institutional occupancies requiring a state or federal license, detention, colleges, universities, state-owned and state-leased buildings, and certain schools.

Upon complaint of any person or upon his own initiative, the fire marshal may inspect any structure, watercraft, or movable within Louisiana except the interiors of private and one- or two-family dwellings.

Whenever the inspecting officer finds that the structure, watercraft, or movable is especially liable to fire or dangerous to life or is so situated as to endanger other property or the occupants, the officer is required to order the dangerous materials removed, the condition of the premises remedied, or the premises razed. The occupant of the structure, watercraft, or movable shall not permit it to be used until the fire marshal certifies that the hazardous conditions have been eliminated.

Under R.S. 40:1646, the fire marshal is authorized to inspect and test all life safety systems and equipment in the state, including but not limited to fire sprinklers, fire alarms, fire suppressions, special locking systems and equipment, and portable fire extinguishers, whether in public or private buildings, during installation or immediately after installation to determine compliance with applicable standards. The owner of any building containing a life safety system and equipment is required, at a minimum, to have an annual inspection made of the life safety system and equipment in that building to assure compliance with applicable safety standards and to determine whether structural changes in the building or in the contents of the building mandate alteration of a system.

Other Commercial Inspections

The office of state fire marshal also performs several other inspections beyond commercial buildings newly constructed or renovated and life safety systems and equipment. These inspections include:

- (1) Boilers, except for those located in the city of New Orleans (R.S. 23:531-546)
- (2) Fireworks sales, including the licensing of vendors (R.S. 51:650-660)
- (3) Amusement Rides including air-supported structures (R.S. 40:1484.1-1484.14)
- (4) Laundry Mats, to ensure minimum temperature of hot water (R.S. 51:1424)
- (5) Family child day care homes, in which there are fewer than seven children receiving care, whether certified by the Department of Children and Family Services or the Department of Education (R.S. 40: 1563.2)

Life Safety and Property Protection Licensing

The "Life Safety and Property Protection Act", R.S. 40:1664.1-1664.16, regulates the certifying, inspecting, installation, integrating, selling, and servicing of life safety and property protection

systems and equipment and prohibits the use of life safety and property protection systems and equipment which are not properly labeled in accordance with the rules adopted by the state fire marshal in the interest of safeguarding lives and property. Under this act, the office of state fire marshal licenses and regulates the following industries: locksmiths including detention and bank locking systems, closed circuit televisions, fire suppression systems, fire sprinklers, fire detection and alarm systems, security systems, and portable fire extinguishers. Complaints regarding an individual or business providing any of these services can be directed to the office of state fire marshal, licensing section.

Manufactured Housing

The construction standards for manufactured housing and the licensing of manufacturers, retailers, and salespersons of manufactured housing are covered by the "Uniform Standards Code for Manufactured Housing", located at R.S. 51:911.21-911.46. The standards for the installation of manufactured housing and the licensing of installers of manufactured housing are governed by R.S. 51:912.21-912.31. Questions and complaints regarding manufactured housing should be directed to the office of state fire marshal, manufactured housing division.

State Uniform Construction Code

As a result of the widespread damage caused by Hurricanes Katrina and Rita, the Legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. Act No. 12 of the 2005 First Extraordinary Session governs new construction, reconstruction, additions to homes previously built to the International Residential Code, extensive alterations, and repair of buildings and other structures and the installation of mechanical devices and equipment therein. The code establishes uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort, and security balanced with affordability for the residents. The new code went into effect statewide on January 1, 2007.

Standards

R.S. 40:1730.28 requires the Louisiana State Uniform Construction Code Council to evaluate, adopt, and amend only the latest editions of the following as the state uniform construction code:

- (1) International Building Code, not including Parts I-Administrative, Chapter 11-Accessibility, Chapter 27-Electrical and Chapter 29-Plumbing Systems
- (2) International Existing Building Code, not including Parts I-Administrative
- (3) International Residential Code, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The enforcement of these standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations; however, a municipality, parish, or regional planning commission may enforce Appendix J of the code at its option
- (4) International Mechanical Code
- (5) The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals

(6) International Fuel Gas Code

(7) National Electric Code

NOTE: For the standards of construction for manufactured housing, please refer to the manufactured housing section under Life Safety and Property Protection.

The governing authority of a parish or municipality is prohibited from enforcing that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp or residential accessory structure. However, a municipality with a population in excess of forty-five thousand according the latest federal decennial census may enforce that portion of the state uniform construction code which regulates the construction or improvement of a residential accessory structure. A parish or municipality may require building permits before the construction or improvement of a farm or private outdoor recreational structure. (R.S. 40:1730.30)

Inspections

Buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit. If no date of issuance of the original building permit can be found, the date of submission of the completed application to the local authority must be used. If no date of application for, or date of issuance of, the building permit is available, the director of the applicable parish planning and development service or similar agency shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records. (R.S. 40:1730.33) Complaints regarding the construction code inspection of a property or a business providing inspection services should be addressed to the Louisiana State Uniform Construction Code Council.

The state fire marshal may establish contract agreements with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish. (R.S. 40:1730.39)

Any municipality or parish which issues a permit for construction shall provide a list of registered certified building inspectors to the applicant for the permit at the time the permit is issued. (R.S. 40:1730.23)

Fees

Municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in order to provide the services required by the state uniform construction code. In the event of the establishment of such an agreement, the maximum fees applicable to the issuance of permits and the enforcement of the code shall be established by the governing body of the municipality or parish. (R.S. 40:1730.24) Municipalities and parishes that establish agreements with other governmental entities of the state or certified third-party providers to enforce the state uniform construction code shall not impose a fee for inspections not performed by the municipality or parish if a fee for the inspection was collected by the governmental entity or third-party provider that actually performed the inspection. (R.S. 40:1730.24)

Equivalencies

A parish or municipality may accept determinations made by the state fire marshal as they pertain to life safety and fire protection as required in the state uniform construction code. (R.S. 40:1730.23)

Louisiana State Uniform Construction Code Council

The Louisiana State Uniform Construction Code Council consists of nineteen members appointed by the governor. Each member of the council serves a term of four years and may serve no more than two consecutive terms. The primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and accept all requests for amendments of the code, except the Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code]. Specifically, the council is required by state law to establish the requirements and process for the certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and to determine if any amendments to the state uniform construction code are justified. If the council determines that an amendment is justified, the council may enact the amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, affordability, and welfare. (R.S. 40:1730.22)

Public Utilities

Storm Recovery Fees

Recently, some rate payer's bills began listing a storm recovery fee or Louisiana Utility Recovery Corporation (LURC) fee. These fees refer to charges incurred by a utility company while repairing utility systems after a major disaster such as a hurricane and passed on to the consumer. The utility companies must file a rate request with the Louisiana Public Service Commission (PSC). The PSC then conducts a rate hearing and, once the request is approved, the PSC issues a financing order setting forth the maximum recovery and the full term the charges are to be collected. In 2006 and 2007, the Louisiana Legislature passed bills to aid in lowering the costs to the rate payers.

Act 64 of the 2006 Regular Session created the "Louisiana Electric Utility Storm Recovery Securitization Act". The purpose of the act was to enable Louisiana electric utilities, if authorized by a financing order issued by the PSC, to use securitization financing for storm recovery costs, because this type of debt may lower the financing costs or mitigate the impact on rates in comparison with conventional utility financing methods which will, in turn, benefit rate payers in the long run. The proceeds of the storm recovery bonds are to be used for the purposes of recovering storm recovery costs, solely as determined by the PSC, to encourage and facilitate the rebuilding of utility infrastructure damaged by storms. Act 64 allows a utility company to obtain bonds for an up-front payment of the costs approved by the PSC. The Act provides for a lower interest rate and was required by federal law in order to provide federal income tax savings on the bonds. The savings could be tens of millions of dollars and will be passed on to the rate payers. The Act also secures the money for restoration up-front which preserves the credit worthiness of the utility companies and allows them to immediately begin the restoration process.

Act 55 of the 2007 Regular Session, is similar to Act 64 of 2006, but differs in that it creates the Louisiana Utility Recovery Corporation under the Louisiana Public Service Commission. LURC

is a tax-exempt entity whose legal status provides legal protection against bankruptcy for the bond holders which translates into lower interest rates and a substantial savings for rate payers. The additional savings could be in the range of 230 to 250 million dollars.

Neither of these acts impose any additional charges on rate payers, but rather the acts authorize the PSC to further their regulatory duties by authorizing certain securitization methods. The PSC remains the regulatory body and dictates the actual amount and length of time of the recovery charges. The PSC must approve the rate charges and then issue a financing order setting forth the maximum recovery and the full term the charges are to be collected before any bonds under Act 64 or Act 55 may be obtained. No additional legislative action is necessary.

Louisiana Public Service Commission

The Louisiana Public Service Commission is established by Article 4 of Section 21 of the Louisiana Constitution of 1974. The commission consists of five members, who are elected for overlapping terms of six years at the time fixed for congressional elections from single member districts established by law. The state constitution grants the commission jurisdiction over the regulation of all common carriers and public utilities and other regulatory authority as provided by law. Because this jurisdiction is constitutionally mandated, the jurisdiction of the commission can only be limited by a change to the constitutional provisions. The jurisdiction of the commission may be expanded by the enactment of a new statute.

The commission has no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of the Louisiana Constitution (January 1, 1975) by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered.

The Louisiana Public Service Commission regulates areas of the motor carrier, telecommunications, electric, gas, water and sewerage industries.

Part G. Business and Labor Labor and Industrial Relations

Louisiana Workforce Commission

In Act No. 743 of the 2008 Regular Session, the Louisiana Department of Labor was renamed the Louisiana Workforce Commission (LWC). The commission is charged with administering and enforcing laws and programs designed to protect the economic and physical well-being of Louisiana's workforce. Within the commission, there are a number of offices to address employment-related issues including the office of unemployment insurance administration, office of worker's compensation administration, office of workforce development and office of management and finance. The functions and structure of the Louisiana Workforce Commission can be found at R.S. 36:301 et seq.

Unemployment Compensation

Unemployment insurance (R.S. 23:1471 et seq) is temporary weekly benefits for a worker who has lost his job through no fault of his own, is able to work, available to work, and pursuing employment in his field. Unemployment insurance benefits are paid based on past employment and legal entitlement. Such benefits are not paid on the basis of need. Unemployment insurance is paid by the employer, and is not deducted from the employee's pay.

To qualify for benefits, the worker must have earned sufficient base period wages from a covered employer and lost his job under certain circumstances. A worker is eligible for benefits if he has been laid off, or if he has voluntarily resigned his position, provided he has resigned for good cause due to a substantial change made by the employer. A worker may be disqualified from receiving benefits if he has been discharged, or fired, due to misconduct.

The amount of unemployment insurance benefits paid varies from worker to worker based upon an individual's total amount of wages earned during a certain period of time. Benefit payments are typically paid through the use of debit cards or direct deposit. After an unemployed worker files for benefits, a debit card is mailed along with instructions for activation of the card.

The maximum amount of time a worker can collect benefits is twenty-six weeks, but an extension for an additional thirteen weeks may be granted in certain circumstances when the worker applies for it. To receive benefits, unemployed workers must file for weekly benefits with the Louisiana Workforce Commission.

If a worker has been denied benefits, he may file an appeal within fifteen days, which requests a hearing before an administrative law judge.

Training Programs

- Disaster Unemployment Assistance

If a worker is unable to work due to a disaster that took place where he lives or works, he may be eligible for disaster unemployment assistance funded by federal grants. The Department of Homeland Security, Federal Emergency Management Agency has oversight of the program, but applicants should apply through the Louisiana Workforce Commission, office of unemployment insurance administration.

- Rapid Response Dislocated Worker Unit

The Worker Adjustment and Retraining Notification (WARN) Act of 1989 requires certain employers to notify the state dislocated worker unit, also referred to as the governor's rapid response team, sixty days prior to initiating a mass layoff or plant closing. The rapid response team then mobilizes to possibly prevent the layoff or closure, or if impossible to prevent, assist those affected by the layoff or closure by coordinating with state and local agencies in the area to provide onsite services to the employer and employees. These services include helping the workers obtain unemployment compensation, incumbent worker training, trade adjustment assistance, as well as hosting onsite job search workshops.

- Trade Act of 2002

Workers whose employment is adversely affected by increased imports may be eligible for trade adjustment assistance, alternative trade adjustment assistance, trade readjustment allowances, and the health coverage tax credit under the Trade Act of 2002 (19 U.S.C. §3803–3805). Trade Act assistance includes a variety of benefits and re-employment services to help unemployed workers prepare for and obtain other suitable employment such as training, a job search allowance, a relocation allowance and other re-employment services.

- Incumbent Worker Training Program

- (1) Customized Training

A partnership between LWC, business and industry, and training providers, this component of the Incumbent Worker Training Program (IWTP) is designed to benefit businesses by assisting in skill development of existing employees. An employer must determine the type of training needed and then select an appropriate training provider. Together, the employer and training provider customize a training plan. The employer must train a minimum of fifteen employees or join a consortium of employers to meet the fifteen employee requirement.

Employers meeting certain criteria, including being in business for a minimum of three years, may apply for, and receive, funds no more than once every twenty-four months. The program is funded by a portion of unemployment insurance tax contributions.

- (2) Small Business Employee Training Program

The Small Business Employee Training (SBET) program component of IWTP is designed to benefit business and industry by assisting in the skill development of existing employees through individual, standardized training. The SBET is available to businesses with 50 or

fewer employees. An applicant must meet certain requirements to qualify for the program, and the employer decides what training is needed.. Approved employers are reimbursed for the costs of the training, upon completion, and after submitting the expenses to the Louisiana Workforce Commission.

- Workforce Investment Act of 1998

The Workforce Investment Act (WIA) is a federally funded program enacted to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs. (Public Law 105-220) It links employers with potential employees to increase employment opportunities and emphasize the development of skills needed to retain long-term employment. The WIA system is administered locally by the Louisiana Workforce Commission, which provides skills training for WIA-eligible workers. Training will be provided in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth. Skill levels to be attained by classroom training programs require the participant to obtain a functional occupational proficiency to attain entry-level employment.

- Dislocated Worker Program

This program aids workers who have been laid off, or are out of work due to plant closures, foreign competition, or other changes in the economy that results in job loss. Job training and education at vocational or technical schools may be available for dislocated workers, as well as other pre-employment training, assessment and assistance.

- Workforce Development & Training Program

This program uses pre-employment training to recruit and train new employees and also provides on-the-job training for current employees. The program was created to develop these training initiatives for businesses to improve competition and production for the state's workforce and business community and to promote employment stability.

- Older Worker Program

This program is designed to help both employers and workers by promoting the employment of workers aged 55 years or older. The benefit to employers is the reduced costs associated with training experienced individuals, and there is a benefit to the economy by having capable, experienced, older workers continue to contribute to society. The program consists of on-the-job training with the help of the WIA, which reimburses up to fifty percent of the trainee's wages during the training period.

Louisiana Rehabilitation Services - Vocational Rehabilitation

Louisiana Rehabilitation Services (LRS) offers vocational rehabilitation as a career development program designed to train disabled persons for suitable employment by evaluating and assessing each prospective employee for employment skills as well as any medical and therapeutic needs. The program works with the prospective employee to teach everything from successful job interviewing skills to the training necessary to thrive in his employment and excel in a career. Employers can receive tax credits, salary and wage reimbursement through on-the-job training services, and qualified, job ready applicants if they hire LRS workers.

Louisiana Rehabilitation Services has eight regional offices. These offices are located in New

Orleans, Baton Rouge, Houma, Lafayette, Lake Charles, Alexandria, Shreveport and Monroe.

Veteran Services

Article X of the Louisiana Constitution provides a five-point hiring preference to civil service positions to honorably discharged wartime veterans who served in the United States Armed forces between the following dates:

Apr 6, 1917, through Nov 11, 1918

Sep 27, 1940, through Jul 25, 1947

Jun 25 1950, through Jan 31, 1955

Jul 1, 1958, through May 7, 1975

Aug 2, 1990, through date to be determined

Note: Service requires appropriate campaign medals

A ten-point hiring preference is accorded to each honorably discharged veteran (peacetime or wartime) who has one or more service connected disabilities, as established by the U.S. Department of Veterans Affairs. In certain circumstances, the ten-point hiring preference can be utilized by the disabled veteran's spouse, widow, or parent.

The veterans preference also extends to layoffs over other non-veteran employees with equal lengths of service and efficiency ratings.

In each Business and Career Solutions Center of the Louisiana Workforce Commission, a veterans' employment representative assures that eligible veterans receive priority in all employment services and assists disabled veterans to access Veteran's Benefits Administration approved on-the-job training and apprenticeship programs. They also provide recruitment assistance to federal contractors who have affirmative action responsibilities toward certain honorably discharged wartime veterans that are listed above.

Community Services Block Grant Program

The Community Services Block Grant (CSBG) Program provides funding and assists community action agencies in providing a range of social services. The services include employment assistance, education, income management training, housing assistance, nutrition, emergency services, health, linkage and self-sufficiency training for low-income individuals including homeless individuals and families, migrants and the elderly poor. To qualify for CSBG services, a family's income must not exceed 125% of the federal poverty level.

Workers' Compensation

The Office of Workers' Compensation (OWCA) is the office within the Louisiana Workforce Commission which oversees all worker's compensation related matters. Among OWCA's divisions that deal directly with employers and/or their insurers are Workplace Safety, Hearings, Fraud, Medical Services, Records Management, and Second Injury Board.

Workers who are injured on the job, or who have an illness that is determined to be caused by his job, may be entitled to receive medical care for the injury or illness, disability compensation for a portion of lost wages, rehabilitation services, and, in the event of death, benefits payable to survivors.

Workers' compensation is paid by employers to injured workers, however, there are certain exempt employers who are not required to pay workers' compensation:

- (1) Any employee of a private residential householder or any employee of a private unincorporated farm.
- (2) Musicians and performers who are rendering services pursuant to a performance contract.
- (3) Employees covered by the Federal Employer's Liability Act, the Longshoremen's and Harbor Workers' Compensation Act, or any of its extensions, or the Jones Act.
- (4) Any employer acting as a common carrier while engaged in interstate or foreign commerce by railroad.
- (5) Members of crews of any airplane engaged in dusting or spraying operations.
- (6) Uncompensated officers and uncompensated members of boards of directors of certain nonprofit organizations.
- (7) Any real estate broker or salesmen licensed to do business in the state of Louisiana.
- (8) Any landman rendering services relating to the exploration, development, production, or transportation of minerals.

Where applicable, an employee who falls under these exemptions may seek tort recovery for injuries arising out of such labor, work, or services from any insurance policy that a homeowner or employer may have which extends coverage to persons injured on their premises.

Anyone having a disputed workers' compensation claim must file the appropriate forms and contact the hearing division. Many times cases are resolved by mediation, but cases that are not resolved by mediation proceed to a hearing before a workers' compensation judge. The division has ten offices: Baton Rouge, New Orleans, Covington, Harahan, Houma, Lafayette, Lake Charles, Alexandria, Monroe, and Shreveport.

The medical services division of the OWCA assists parties in resolving disputes involving the necessity, advisability, and cost of medical and non-medical treatment of workers' compensation injuries. They schedule independent medical examinations by doctors for injured employees, perform utilization review of medical treatment, and make recommendations about the amount or method of reimbursements to health care providers.

Second Injury Board

The Second Injury Board encourages employers to hire or retain individuals in their employment with permanent partial disabilities that hinder that individual's future employment. The Second Injury Fund protects employers from excess liability for workers' compensation losses by reimbursing them, or their insurance carrier, for certain benefits paid in the event such an employee is injured on the job.

Louisiana Workers' Compensation Corporation

The Louisiana Workers' Compensation Corporation (LWCC) was created in 1991 by

constitutional amendment and is a private, nonprofit, mutual insurance company that is the largest workers' compensation carrier in the state. (Const. Art. XII, §8.1)

The board of directors consists of 12 members representing labor, business, insurance and public interests.

Other Louisiana Labor Laws

Employment-At-Will

Louisiana is an employment-at-will state, meaning either an employer or an employee may terminate the employment relationship at any time, with or without notice, absent a limiting statute or contractual agreement. (C.C. Art. 2747)

There are certain exceptions to Louisiana's employment-at-will doctrine. Louisiana employees may not be disciplined or discharged at-will for:

Being called to military service	R.S. 29:38.1
Being called to jury duty	R.S. 23:965
Political opinions or voting	R.S. 23:961-962
Exercising right of association	R.S. 23:824
Wage garnishment	R.S. 23:731
Filing workers' compensation claim	R.S. 23:1361
Whistle-blowing	R.S. 23:967 and R.S. 30:2027

Medical Exam & Drug Testing

An employer may require an employee or applicant to submit to a medical exam, a drug test, or fingerprinting, but is prohibited from having the employee or applicant bear the cost of the test, or the cost of any background check or records request. (R.S. 23:897)

Apprentices

Louisiana's registered apprenticeship law authorizes the establishment of a voluntary apprenticeship training program for a trade which provides on-the-job training coupled with a course of related and supplemental instruction.

Upon successful completion of the training program, the apprentice is issued a certificate of completion and is elevated to the level of journeyman in the trade in which he or she has been trained. (R.S. 23:381 et seq.)

Employment of Minors

Any person under the age of 18 must obtain an employment certificate from the parish or city school superintendent or designated representative prior to being employed. Certain restrictions apply to the types of employment in which minors may work. Allowable work hours for minors also apply.

All minor employees must be given an uninterrupted break of not less than 30 minutes if the minor works in excess of five hours. All times worked by minors, including beginning and ending times of breaks, must be fully documented by the employer, and such records must be

made available for review by Unemployment Insurance Administration Specialists. (R.S. 23:151, et seq.)

Payment After Termination of Employment

Any Louisiana employee who is laid off or dismissed must be paid his wages in full no later than the next regular payday or fifteen days from the date of separation of employment, whichever is sooner. Any employee who quits must be paid his wages in full at the next regular payday for the pay cycle during which the employee was working at the time of separation, not to exceed fifteen days from the date of resignation. The employee should send a written demand for payment of final wages to the employer, after which, the employer must pay all wages owed to the employee on a timely basis or be subject to a penalty that may be imposed by a court. (R.S. 23:631-632)

Failure to Pay on Time

An employer must inform his employee, at the time he is hired, the amount and method of payment of his wages, as well as the frequency of those payments. Penalties may be imposed for failure to designate paydays. (R.S. 23:633)

Prohibition Against Fines or Deductions From Pay Checks

An employer is prohibited from penalizing an employee or deducting any sum of money as a penalty or fine from the employee's wages, except where the employee damages property belonging to or in the possession of the employer. (R.S. 23:635)

Questions Concerning Overtime, Minimum Wage, or Salaried Employees

The United States Department of Labor's (USDOL) Wage and Hour Division enforces the Fair Labor Standards Act regulating minimum wage, overtime, and salaried employees.

Employment of Illegal Immigrants

Employers are required to hire only United States citizens or aliens who are authorized to work in the United States. An employer is required to verify citizenship of any potential employee by using either the United States Citizenship and Immigration Services E-Verify system OR by using a United States birth certificate or certified birth card, naturalization certificate, certificate of citizenship, alien registration receipt card or a United States immigration form I-94 with employment authorization stamp. (R.S. 23:991 et seq.)

Verification of Employees Involved in Public Contract Work

Any private employer who bids or contracts with a public entity is required to be registered with, and participate in a status verification system such as the United States Citizenship and Immigration Services E-Verify system to verify that all employees are properly authorized to work in the United States. (R.S. 38:2212.10)

Nondiscrimination

Discrimination against employees is illegal under both federal and state law. (R.S. 23:301 et seq)
An employer may not discriminate against any employee on the basis of race, color, religion,

sex, or national origin (R.S. 23:332), age (R.S. 23:312), disability (R.S. 23:323), sickle cell trait (R.S. 23:352), handicap (R.S. 46:2254), genetic information (R.S. 23:368), pregnancy (R.S. 23:342), or smoking (R.S. 23:966).

Family Medical Leave Act of 1993

Family Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, provides an employee up to twelve weeks of unpaid, job-protected leave per year. It also requires that the employee's group health benefits be maintained during the leave. FMLA applies to all public agencies, all public and private elementary and secondary schools, and companies with fifty or more employees. These employers must provide an eligible employee with up to twelve weeks of unpaid leave each year for a new child in the family by birth, by adoption, or by placement in foster care, to care for an immediate family member (spouse, child, or parent) with a serious health condition or to take medical leave when the employee is unable to work because of a serious health condition.

An employee is eligible for leave if he has worked for his employer for at least twelve months, at least 1,250 hours over the past twelve months, and at a location where the company employs fifty or more employees within seventy-five miles.

Americans with Disabilities Act of 1990

The Americans with Disabilities Act (ADA), 42 U.S.C. 12101, was enacted to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities, and to ensure that the federal government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities.