

Regular Session, 2009

SENATE BILL NO. 257

BY SENATOR QUINN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HOUSING. Provides for safe homes for Louisiana families.(8/15/09)

1 AN ACT

2 To enact Chapter 3-G of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 40:600.81 through 600.88, relative to construction materials; to provide for
4 damages; to provide for hazardous or toxic materials; to provide for medical
5 monitoring; to provide for legislative findings; to provide for definitions; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 3-G of Title 40 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 40:600.81 through 600.88, is hereby enacted to read as follows:

10 **CHAPTER 3-G. SAFE HOMES FOR LOUISIANA FAMILIES**

11 **§600.81. Title**

12 **This Chapter shall be known and may be cited as the "Safe Homes for**
13 **Louisiana Families Act."**

14 **§600.82. Legislative findings**

15 **The legislature finds that:**

16 **(1) Hurricanes Katrina, Rita, Gustav and Ike destroyed thousands of**
17 **residential housing units in Louisiana, left thousands of residential housing**

1 **units substantially damaged and displaced hundreds of thousands of Louisiana**
2 **citizens.**

3 **(2) The unprecedented need for rebuilding and new construction in the**
4 **residential housing market gave unscrupulous manufacturers, suppliers and**
5 **contractors an opportunity to dump substandard construction materials on a**
6 **population desperate to return to their homes.**

7 **(3) Some of the substandard materials used in the post-hurricane**
8 **rebuilding have been discovered to be hazardous to the health of families**
9 **occupying those homes and destructive to the house and its contents, including**
10 **electrical wiring and electronic devices and appliances corroded and destroyed**
11 **due to off-gassing of caustic substances from these substandard materials.**

12 **(4) Families who have unknowingly had these substandard construction**
13 **materials incorporated into their homes face further financial devastation from**
14 **these products that make their homes unfit for human occupancy.**

15 **(5) Louisiana families need safe homes in which to live, and when their**
16 **health, safety and well-being, as well as the value of their property, are**
17 **threatened by these substandard construction materials, those families should**
18 **be made whole from their loss.**

19 **(6) The financial burden placed on homeowners as a result of these**
20 **substandard products undermines the rebuilding of Louisiana communities.**
21 **Louisiana's economic recovery depends on foreign manufacturers and the**
22 **distributors and sellers of their products being held accountable for the damage**
23 **they have caused to Louisiana families.**

24 **§600.83. Definitions**

25 **For the purposes of this Chapter, the following words and phrases shall**
26 **have the following meanings:**

27 **(1) "Substandard construction materials" means any material**
28 **incorporated into a residential dwelling that makes the dwelling unfit for**
29 **human occupancy.**

1 **(2) "Damages" means all direct and indirect losses, including but not**
2 **limited to the costs of the original substandard construction materials,**
3 **inspection, remediation, demolition, replacement construction materials, labor**
4 **and materials necessary to restore the property, alternative living expenses**
5 **incurred during the period of demolition, restoration and repair and all other**
6 **damages available under Civil Code Article 2315.**

7 **§600.84. Damages**

8 **The manufacturer, seller and distributor of substandard construction**
9 **materials, and any contractor who purchases for installation or installs**
10 **substandard construction materials into a residential dwelling shall be liable to**
11 **the owner or occupant of any such residential dwelling who has suffered**
12 **damage as a result of the substandard construction materials.**

13 **§600.85. Foreign corporations not authorized; solidary liability**

14 **Any party liable to the owner or occupant of a residential housing unit**
15 **for damages under this Chapter shall be liable in solido for any such damages**
16 **with any foreign corporation not authorized to do business in Louisiana in**
17 **accordance with R.S. 12:301 who is a manufacturer, seller or distributor of the**
18 **construction materials.**

19 **§600.86. Hazardous or toxic materials, substandard per se**

20 **Any construction materials incorporated into a residential dwelling that**
21 **are hazardous or toxic or that emit hazardous or toxic gases, fumes or vapors**
22 **shall be considered substandard per se within the meaning of this Chapter.**

23 **§600.87. Medical monitoring**

24 **In addition to any cause of action allowed under this Chapter or under**
25 **any other provision of law, the owner or occupant of any residential housing**
26 **unit who has experienced loss or damage as a result of the incorporation into his**
27 **dwelling of construction materials that are hazardous or toxic or that emit**
28 **hazardous or toxic gases, fumes or vapors shall also have a cause of action for**
29 **the cost of future medical treatment, services, surveillance, or procedures**

1 related to monitoring of the effects of exposure to the hazardous or toxic
 2 construction materials or any hazardous or toxic gases, fumes or vapors given
 3 off by the construction materials, if it can be shown that there is a risk of disease
 4 or injury as a result of such exposure.

5 §600.88. Wanton and reckless disregard of public safety; treble damages

6 When the residential dwelling contains construction materials that are
 7 hazardous or toxic or that emit hazardous or toxic gases, fumes or vapors, in
 8 addition to general and special damages, damages in the amount of three times
 9 such general and special damages may be awarded upon proof that the
 10 manufacture, distribution, sale or incorporation of such construction materials
 11 was in wanton and reckless disregard for public health and safety.

12 Section 2. This Act shall become effective on August 15, 2009; if vetoed by the
 13 governor and subsequently approved by the legislature, this Act shall become effective on
 14 August 15, 2009, or on the day following such approval by the legislature, whichever is
 15 later.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Greg Waddell.

DIGEST

Proposed law provides for legislative findings.

Proposed law provides that a manufacturer, seller and distributor of substandard construction materials, and any contractor who purchases for installation or installs substandard construction materials into a residential dwelling shall be liable to the owner or occupant of any such residential dwelling who has suffered damage as a result of the substandard construction materials.

Proposed law provides that any party liable to the owner or occupant of a residential housing unit for damages under proposed law shall be liable in solido for any such damages with any foreign corporation not authorized to do business in Louisiana who is a manufacturer, seller or distributor of the construction materials.

Proposed law provides any construction materials incorporated into a residential dwelling that are hazardous or toxic or that emit hazardous or toxic gases, fumes or vapors shall be considered substandard per se within the meaning of proposed law.

Proposed law provides that in addition to any cause of action allowed under proposed law or under any other provision of law, the owner or occupant of any residential housing unit who has experienced loss or damage as a result of the incorporation into his dwelling of construction materials that are hazardous or toxic or that emit hazardous or toxic gases, fumes or vapors shall also have a cause of action for the cost of future medical treatment,

services, surveillance, or procedures related to monitoring of the effects of exposure to the hazardous or toxic construction materials or any hazardous or toxic gases, fumes or vapors given off by the construction materials, if it can be shown that there is a risk of disease or injury as a result of such exposure.

Proposed law provides that when the residential dwelling contains construction materials that are hazardous or toxic or that emit hazardous or toxic gases, fumes or vapors, in addition to general and special damages, damages in the amount of three times such general and special damages may be awarded upon proof that the manufacture, distribution, sale or incorporation of such construction materials was in wanton and reckless disregard for public health and safety.

Effective August 15, 2009.

(Adds R.S. 40:600.81 - 600.88)