

1 WHEREAS, shortly after the commencement of repairs, the general contractor made
2 a formal demand on the CGL insurer for the general contractor's costs for remediation; and

3 WHEREAS, ultimately, the general contractor filed suit against the insurer and
4 obtained a summary judgment finding coverage in favor of the general contractor; and

5 WHEREAS, cases of precedence hold that a contractor is not entitled to insurance
6 coverage through a CGL policy for property damage caused by the contractor's own
7 defective performance, and a common refrain among those cases is that "a CGL policy is not
8 intended to serve as a performance bond"; and

9 WHEREAS, the ruling in *Broadmoor Anderson* does not directly affect that common
10 refrain, because the subcontractor responsible for the defective work was not entitled to any
11 insurance coverage for costs of remediation; and

12 WHEREAS, as summarized by a California court, "Generally liability policies...are
13 not designed to provide contractors...with coverage against claims their work is inferior or
14 defective...Rather liability coverage comes into play when the contractor's (insured)
15 defective materials or work cause injury to property *other than* the insured's own work or
16 products." (*Clarendon America Ins. Co. v. General Sec. Indem. Co. of Arizona* (2011) 193
17 Cal. App. 4th 1311, 1325) (emphasis added); and

18 WHEREAS, the Louisiana State Licensing Board for Contractors (board) is the state
19 agency authorized to license and regulate building contractors in this state, and such board
20 serves the mission and purpose of "the protection of the general public from incompetent and
21 fraudulent acts of a contractor while promoting the integrity of the construction industry";
22 and

23 WHEREAS, many Louisiana citizens hire board-licensed contractors to perform and
24 complete both residential and commercial constructions in this state; and

25 WHEREAS, some such citizens allege adverse outcomes with respect to defective
26 constructions resulting from the substandard workmanship of respective licensed
27 contractors; and

28 WHEREAS, such allegations of adverse outcomes prompt a particular concern of
29 such citizens relative to CGL policies of contractors licensed in this state; and

1 WHEREAS, such particular concern relates to the aforementioned common refrain
2 that "a CGL policy is not intended to serve as a performance bond" and thus, a CGL policy
3 generally does not contain coverage to insure citizens' claims against contractors with
4 respect to contractors' substandard or faulty workmanship; and

5 WHEREAS, while the state shares interest in the board's mission and purpose to
6 protect the general public from certain incompetent and fraudulent acts while promoting
7 integrity of the state's construction industry, it is also a state interest to determine whether
8 the general public may be better protected by CGL policies that insure citizens' claims
9 against contractors, when such claims result from assertions of substandard or faulty
10 workmanship of contractors licensed in this state through the Louisiana State Licensing
11 Board for Contractors.

12 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
13 authorize and direct the Louisiana State Licensing Board for Contractors to conduct a study
14 and to provide recommendations concerning contractors' general liability policies and
15 whether such policies should insure claims against contractors' workmanship.

16 BE IT FURTHER RESOLVED that the Louisiana State Licensing Board for
17 Contractors is hereby authorized to exercise its discretion as to the use of or engagement in
18 certain research, consultations, studies, or any other pertinent information deemed essential
19 by the board in its determination as to whether such CGL policies should necessarily insure
20 claims against contractors' workmanship.

21 BE IT FURTHER RESOLVED that the Louisiana State Licensing Board for
22 Contractors shall submit a written report of its findings and recommendations to the House
23 Committee on Commerce and Senate Committee on Commerce, Consumer Protection, and
24 International Affairs on or before February 1, 2017.

25 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
26 executive director of the Louisiana State Licensing Board for Contractors.

DIGEST

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

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Authorizes and directs the La. State Licensing Bd. for Contractors to report its findings and recommendations concerning contractors' general liability policies and whether such policies should insure claims against contractors' workmanship.

Requests a written report of its findings and recommendations by Feb. 1, 2017.