

LSA-R.S. 9:5644

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 9. Civil Code Ancillaries

Code Book III. Of the Different Modes of Acquiring the Ownership of Things

Code Title XXIV. Prescription ([Refs & Annos](#))Chapter 1. Prescription ([Refs & Annos](#))▣ [Part I. Periods of Prescription](#)▣ [Subpart C. Five Years \(Refs & Annos\)](#)**→ § 5644. Prescription of actions involving asbestos abatement**A. **Asbestos** abatement shall include any of the following:

- (1) The removal of **asbestos** or materials containing **asbestos** from any building.
- (2) Any other measures taken to detect, correct, or ameliorate any problem related to **asbestos** in a building.
- (3) Reimbursement for the removal, correction, or amelioration of **asbestos** or materials containing **asbestos**.

B. Notwithstanding any other provision of law to the contrary, any time limitation or prescriptive period which may be applicable to any action to recover for **asbestos** abatement work shall not apply or expire until five years after the date on which the party seeking to recover has completed the abatement work or discovered the identity of the manufacturer of the materials which require abatement, whichever is later.

C. Any person who has an action to recover for **asbestos** abatement work under the provisions of this Section but whose action is barred by the prescriptive period provided in R.S. 9:5644 shall have one year from the effective date of this Act within which to bring an action or be forever barred.

D. Nothing in this Section is intended to nor shall it have the effect of changing in any respect the applicable prescription periods fixed by law for benefits under the worker's compensation law for claims for damages due to **asbestos** related injury or disease.

CREDIT(S)

Added by Acts 1985, No. 728, § 1.

LSA-R.S. 9:5644, LA R.S. 9:5644

Current through the 2008 Regular Session

Copr © 2009 Thomson Reuters/West.

END OF DOCUMENT

LSA-R.S. 40:1749.1

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 40. Public Health and Safety

↗ [Chapter 8. Building Regulations](#)↗ [Part VII. Asbestos and Hazardous Materials Detection Program \(Refs & Annos\)](#)

→ **§ 1749.1. Asbestos and hazardous component materials detection program established; finding and purpose; rules; duties and responsibilities; definitions; exceptions**

A. The legislature finds that friable **asbestos** containing materials and other hazardous component materials in any environment occupied by human beings creates a serious hazard to health. The existence of such hazards should not be tolerated in the public buildings in this state, and it is incumbent upon state government to take initiative to see that such hazards are detected and that appropriate abatement actions are taken.

B. It is the purpose of this Section to provide a mechanism by which the presence of friable **asbestos** containing materials and other hazardous component materials in the public buildings in this state can be detected so that appropriate abatement actions are taken in order that the occupants in those buildings may work and live in an environment which does not threaten their welfare in any manner.

C. (1) The secretary of the Department of Environmental Quality shall establish a program to insure that whatever action as may be necessary is taken for the detection and appropriate abatement of friable **asbestos** containing materials and other hazardous component materials in public buildings, except those buildings constructed after 1978, unless it is determined that there is a possibility of the presence of these hazardous component materials. The secretary shall promulgate rules and regulations implementing an **asbestos** and hazardous component materials detection program which shall include but not be limited to visual assessment and air monitoring.

(2) Until the secretary adopts a level by regulation, the maximum allowable **asbestos** level for the protection of the general public shall be 0.01 fibers per cubic centimeter of air, measured during normal occupancy and calculated as an eight-hour time-weighted average in accord with [29 CFR Part 1910.1001, Appendix A](#), protocols for phase contrast microscopy (PCM). In the event that airborne **asbestos** fiber levels exceed such a level, a second test of samples may be collected during normal occupancy, analyzed by transmission electron microscopy (TEM) analysis and calculated as an eight-hour time-weighted average in accord with [29 CFR Part 1910.1001, Appendix A](#), and that value shall be controlling in determining whether the maximum allowable level is being exceeded.

(3) Such rules and regulations shall be promulgated after public hearing thereon in accordance with the Administrative Procedure Act, [R.S. 49:950 et seq.](#) The secretary shall promulgate rules and regulations as required by this Section no later than January 1, 1989.

D. The secretary may contract with any agencies, individuals, or groups for the provision of necessary services, subject to appropriation, and shall issue and from time to time amend such rules and regulations as may be ne-

cessary. Contracts entered into with individuals or groups shall be subject to the public bid laws.

E. For the purposes of this Section, "friable **asbestos**" and **asbestos** containing materials shall have the same meaning as defined in [R.S. 30:2343](#).

F. For the purpose of this Section, "public building" means those buildings owned or leased by the state of Louisiana, except those buildings constructed after 1978, unless it is determined that there is a possibility of the presence of these hazardous component materials.

CREDIT(S)

Added by [Acts 1988, No. 790, § 1](#). Amended by [Acts 1990, No. 418, § 1](#).

HISTORICAL AND STATUTORY NOTES

2008 Main Volume

In this section as enacted in 1988, paragraph designations were made in subsec. C and commas were inserted following "shall include" and "be limited to" in the second sentence of par. (C)(1) as designated, all pursuant to the statutory revision authority of the Louisiana State Law Institute.

Pursuant to House Concurrent Resolution No. 247 of the 1987 Regular Session, Chapter 11, "Environmental Quality" was redesignated as Subtitle II, "Environmental Quality" of Title 30, and the sections of Chapter 11, previously [R.S. 30:1051](#) to [30:1150.96](#), were redesignated as [R.S. 30:2001](#) to [30:2396](#). Pursuant to this redesignation and the statutory revision authority of the Louisiana State Law Institute, "[R.S. 30:2343](#)" was substituted for "[R.S. 30:1150.43](#)" in subsec. E.

The 1990 amendment inserted ", except those buildings constructed after 1978, unless it is determined that there is a possibility of the presence of these hazardous component materials" following "public buildings" in the first sentence of par. (C)(1) and following "state of Louisiana" in subsec. F; deleted commas following "include" and "limited to" in the second sentence of par. (C)(1); and added "; exceptions" to the section heading.

Title of Act:

An Act to enact Part VII of Chapter 8 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1749.1, relative to public buildings; to establish the **asbestos** and hazardous component materials detection program; to provide for purpose, rules, regulations, procedures, duties, and responsibilities; to provide definitions; to establish a permissible **asbestos** level pending adoption of rules regulating the same by the secretary; and to provide for related matters. Acts 1988, No. 790.

LSA-R.S. 40:1749.1, LA R.S. 40:1749.1

Current through the 2008 Regular Session

Copr © 2009 Thomson Reuters/West.

END OF DOCUMENT

West's Louisiana Statutes Annotated Currentness
Louisiana Revised Statutes
Title 39. Public Finance
Subtitle I. State Finance
Chapter 1. Division of Administration ([Refs & Annos](#))
▣ [Part II-A. Special Funds \(Refs & Annos\)](#)
→ Subpart D. Louisiana Asbestos Detection and Abatement Fund

§ 97.1. Short title

This Subpart shall be known and may be cited as the "Louisiana Asbestos Detection and Abatement Act".

§ 97.2. Declaration of purpose

The purpose of this Subpart is to create a fund to provide a mechanism by which the presence of friable asbestos-containing materials in state buildings in this state can be detected, analyzed, controlled, managed, maintained, and abated, if necessary.

§ 97.3. Louisiana Asbestos Detection and Abatement Fund

A. There is hereby created in the state treasury a special fund to be known as the Louisiana Asbestos Detection and Abatement Fund, hereinafter referred to as the "asbestos fund".

B. After compliance with the requirements of [Article VII, Section 9\(B\) of the Constitution of Louisiana](#) relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to the total amount recovered or received pursuant to any of the methods described in Subsection C of this Section shall be credited to the asbestos fund. The monies in the asbestos fund shall be used solely as provided by this Section. All unexpended and unencumbered monies in the asbestos fund at the end of the fiscal year shall remain in the fund. The monies in the asbestos fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the asbestos fund following compliance with the requirements of [Article VII, Section 9\(B\) of the Constitution of Louisiana](#) relative to the Bond Security and Redemption Fund.

C. The following funds shall be credited to the asbestos fund as provided in Subsection B:

- (1) All monies received from any judgment, settlement, assessment of civil or criminal penalty, or otherwise collected as a result of a case or cause of action against a manufacturer of asbestos-containing materials or any other responsible person brought to recover monies expended or anticipated to be expended or damages incurred in connection with the detection, analysis, control, management, maintenance, and abatement of asbestos-containing materials in any state building.
- (2) All funds designated to the asbestos fund and received by donation, grant, gift, or otherwise from any source.
- (3) All funds appropriated specifically to the asbestos fund by the legislature.

(4) Any grants or allocations made to the state from the United States government for the purposes of investigation, analysis, containment, management, maintenance, or abatement of asbestos-containing materials from state buildings.

(5) Any other allocations made directly to the asbestos fund.

D. The office of facility planning and control within the division of administration in the office of the governor shall administer the asbestos fund and shall utilize monies appropriated from the fund by the legislature for necessary and appropriate expenditures in the detection and abatement of asbestos-containing materials in state buildings. No monies shall be expended until the commissioner has received sufficient proof of services rendered and materials or equipment used or expended or to be used or expended. For the design and management of remedial actions, including abatement of state buildings, the office of facility planning and control shall select appropriate actions to be taken based on cost effectiveness and compliance with applicable law.

E. The monies in the asbestos fund shall be appropriated by the legislature and shall be used solely for the following purposes:

(1) Detection, analysis, containment, control, management, maintenance, removal, and abatement of asbestos in state buildings.

(2) Securing services for the design and management of all statewide programs created under this Subpart to detect and abate asbestos from state buildings.

(3) Any remedial action accompanying the abatement of state buildings.

(4) Maintenance, removal, repair, renovation, modification, demolition, or construction of state buildings in connection with the abatement of state buildings.

(5) Reimbursement to the state general fund of any fees, costs, and expenses incurred in recovering monies deposited in this fund.

(6) Repair, renovation, modification, demolition, or construction related to correction of life safety code violations in state buildings or related to modifications necessary for compliance with the Americans with Disabilities Act.

F. The commissioner of administration shall report each quarter to the Joint Legislative Committee on the Budget on the specific projects for which monies appropriated from the fund have been used.

G. The commissioner of administration shall report to the Joint Legislative Committee on the Budget by the first of March of each year the amount in the asbestos fund.

H. Unless extended by the legislature on or before August 15, 2001, no monies may be deposited into the fund and all unencumbered balances in the fund shall be deposited in the state general fund on that date. All encumbered monies in the fund upon that date shall remain to the credit of the fund and shall be available for liquidation of such obligations. Upon liquidation of all obligations and expenditure of monies in the fund, the fund shall be abolished.

§ 97.4. Legal counsel; attorney general

A. Notwithstanding any other provision of law to the contrary, the attorney general shall:

(1) Provide assistance in evaluating whether the state has sufficient grounds to initiate or prosecute a civil suit for all recoverable damages and other available remedies against a manufacturer of asbestos-containing materials or any other responsible person caused by asbestos-containing materials that have been installed in any state building at any time.

(2) Initiate and prosecute any civil suit for all recoverable damages and other available remedies as provided in Paragraph (1) of this Subsection.

(3) Pursue any appropriate claims for reimbursement brought by or on behalf of the state or for recovery of any sums due the state under any applicable civil or criminal law in accordance with Paragraph (1) of this Subsection.

B. (1) With the consent of the commissioner of administration and in accordance with the ordinary procedures for procuring professional services as provided in Chapter 16 of Subtitle III of this Title the attorney general may contract with and employ private contractual legal counsel to initiate and prosecute a civil action against any manufacturer of asbestos-containing materials or any other responsible person to recover monies due or to damages incurred by the state resulting from the presence of asbestos or asbestos-containing materials in state buildings.

(2) Legal services provided and costs incurred under previous contracts related to asbestos litigation are hereby acknowledged, except that attorney fees related to such contracts shall be paid on an hourly basis. The attorney general, the commissioner of administration, and the attorneys providing legal services under contract in connection with asbestos litigation shall endeavor to reach an agreement regarding the amount of attorney fees and costs to be paid to the attorneys who provided such legal services. Such negotiated attorney fees, excluding costs, shall be determined on an hourly basis, and shall be in accordance with fee policies for hourly basis contracts utilized by the attorney general in engagement of outside counsel with special expertise in representation of the state in extraordinary circumstances. The amount of such negotiated attorney fees, costs, and expenses associated with services performed prior to May 1, 1998, shall be paid only through a specific appropriation.

§ 97.5. Construction of Subpart

Nothing in this Subpart shall or shall be construed to create, extinguish, revive, transfer, or otherwise affect any existing or future claim or cause of action or any objections, exceptions, or defenses thereto.

§ 97.6. [Blank]

§ 98. [Blank]

Current through the 2008 Regular Session
END OF DOCUMENT

LSA-R.S. 9:2800.3

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 9. Civil Code Ancillaries

Code Book III. Of the Different Modes of Acquiring the Ownership of Things

▣ [Code Title V.](#) Of Quasi Contracts, and of Offenses and Quasi Offenses▣ [Chapter 2.](#) Of Offenses and Quasi Offenses ([Refs & Annos](#))

→ § 2800.3. Limitation of liability of persons designing, supervising or performing hazardous waste mitigation, abatement, or cleanup and asbestos removal, abatement, or cleanup services

A. There shall be no liability on the part of duly authorized personnel of a state approved educational facility or any duly licensed architect or engineer contracting to design or supervise or any contractor engaged in hazardous waste mitigation, abatement, or cleanup services and **asbestos** removal, abatement, or cleanup services, for any injury to person or property caused by or related to such services, unless it is shown by a preponderance of the evidence that the design, supervision, or removal was either in violation of procedures established in accordance with applicable state or federal laws relative to such services, and was a proximate cause of the injury, or that the performance of such design, supervision, or removal is found, by a preponderance of evidence, to constitute negligence and was a proximate cause of the injury.

B. The provisions of this Section shall not be construed to alter, amend, or repeal [R.S. 30:1148 \[FN1\]](#) or [R.S. 30:1149.46 \[FN2\]](#).

CREDIT(S)

Added by Acts 1986, No. 952, § 1. Amended by [Acts 1988, No. 518, § 1, eff. July 8, 1988](#).[\[FN1\]](#) Former R.S. 30:1148 was redesignated as [R.S. 30:2204](#) in 1988.[\[FN2\]](#) Former R.S. 30:1149.46 was redesignated as [R.S. 30:2276](#) in 1988.

HISTORICAL AND STATUTORY NOTES

2009 Main Volume

This section, enacted in 1986 as [R.S. 9:2800.1](#) was redesignated as R.S. 9:2800.3 pursuant to the statutory revision authority of the Louisiana State Law Institute.

The 1988 amendment rewrote subsec. A, which previously read:

"A. There shall be no liability on the part of duly authorized personnel of a state approved educational facility engaged in or any duly licensed architect or engineer contracting to design or supervise hazardous waste mitigation, abatement, or cleanup services and **asbestos** removal, abatement, or cleanup services, for any injury to person or property caused by or related to such services, unless it is shown by a preponderance of the evidence that

LSA-R.S. 9:2800.3

the design or supervision was either in violation of procedures established in accordance with applicable state or federal laws relative to such services, and was a proximate cause of the injury, or that the performance of such design or supervision is found, by a preponderance of evidence, to constitute negligence and was a proximate cause of the injury."

In this section as amended in 1988, in the section heading, commas were inserted following "abatement", pursuant to the statutory revision authority of the Louisiana State Law Institute.

LSA-R.S. 9:2800.3, LA R.S. 9:2800.3

Current through the 2008 Regular Session

Copr © 2009 Thomson Reuters/West.

END OF DOCUMENT