

Regular Session, 2009

HOUSE CONCURRENT RESOLUTION NO. 185

BY REPRESENTATIVE TIM BURNS

A CONCURRENT RESOLUTION

To urge and request the Department of Health and Hospitals and the Department of Insurance, in consultation with the Louisiana State Licensing Board for Contractors, to investigate the health risks associated with living in homes that contain drywall imported from China, to study the potential homeowners insurance coverage issues, including triggers, endorsements, and exclusions to policies that are related to drywall imported from China, and to determine whether such material should be identified as a substandard, unsafe building material and report findings and recommendations to the legislature prior to the convening of the 2010 Regular Session.

WHEREAS, historically, drywall which is commonly used as a building material for interior walls and ceilings in residential dwellings was manufactured in the United States; and

WHEREAS, due to the construction boom from 2002 to 2007 and Hurricanes Katrina and Rita, a shortage of domestic drywall required many contractors to purchase a foreign product manufactured in China; and

WHEREAS, a Herald Tribune analysis of shipping records between 2006 and late 2007 indicated that more than five hundred fifty million pounds of drywall and associated building materials were imported from China to the United States, enough to build more than sixty thousand homes; and

WHEREAS, the analysis also found that the amount of drywall imported from China and entering Louisiana through the Port of New Orleans was approximately sixty million pounds, enough to build approximately seven thousand homes; and

WHEREAS, a Louisiana couple has filed a class action lawsuit against certain drywall manufacturers in federal court in the Eastern District of Louisiana, alleging that the

wall board in their home began emitting a "rotten egg" odor which caused respiratory problems and corroding electrical equipment; and

WHEREAS, reports from various media outlets indicate that drywall imported from China was also used as a building material in homes located in at least ten other states, including Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas, and Virginia; and

WHEREAS, the Florida Department of Health tested drywall imported from China and discovered that it contained potentially hazardous levels of strontium sulfide, a material that can emit corrosive gases when exposed to moisture and humidity; and

WHEREAS, emissions from drywall imported from China and installed into homes have caused substantial safety hazards to the structures, including corrosion in electrical wiring, which can result in a fire hazard, failure of air conditioning units, and the failure of other household electrical products; and

WHEREAS, preliminary testing shows that drywall may be responsible for certain health hazards, and reports from occupants of homes containing this foreign product indicate that odors emitted from the materials are unbearable and essentially render their homes uninhabitable; and

WHEREAS, the Department of Health and Hospitals should investigate the potential hazardous effects that drywall imported from China may have on the health of occupants of a home containing such materials; specifically, determining whether the gases that are emitted from this foreign drywall pose any health risk to the occupants of the home; and

WHEREAS, most homeowners insurance policies provide broad coverage for property damage to the insured premises and as such many property owners will rely on their homeowners policies to provide coverage for problems in their homes that result from drywall imported from China; and

WHEREAS, many homeowners insurance policies exclude coverage for the following: wear and tear, marring, and deterioration; inherent vice, latent defect, and mechanical breakdown; smog, rust, mold, and wet or dry rot; release, discharge or dispersal of contaminants or pollutants; and settling, cracking, shrinking, bulging, or expansion of walls, floors, or ceilings; and

WHEREAS, the study should investigate whether the liability coverage exclusions applicable to pollution and construction defects are interpreted by Louisiana homeowners insurers as prohibiting recovery for problems arising from drywall imported from China; and

WHEREAS, the Department of Insurance should study the potential homeowners insurance coverage issues, including triggers, endorsements, and exclusions that may restrict or prohibit recovery in claims instituted to address problems in homes that contain drywall imported from China; and

WHEREAS, in Louisiana there are presently no mandatory product-safety standards for drywall; and

WHEREAS, the Louisiana State Licensing Board for Contractors should participate by providing information and offering recommendations on the following: whether there is a need to prohibit the use of such materials; whether contractors should be required to disclose to the public the use of such materials; and whether there should be a warning issued to consumers about the potential risks associated with the use of such materials; and

WHEREAS, the Louisiana State Licensing Board for Contractors should offer information and recommendations on establishing an unacceptable percentage of organic compounds by weight which would constitute a defective product and therefore qualify as a substandard building material that could potentially pose a hazard to the construction of the home and the safety of its occupants; and

WHEREAS, the Louisiana State Licensing Board for Contractors should offer information and technical insight into the use of available measures to ensure that the costs of homeowner assistance efforts are borne by the drywall manufacturers in China that produced and distributed the hazardous materials and their subsidiaries in the United States and not the taxpayers of Louisiana; and

WHEREAS, the use of drywall imported from China in residential dwellings of Louisiana serves to defraud home builders, threaten the safety of the occupants of those homes, undermine the public's trust in the quality of products used in the construction of their homes, and negatively impact the resale value of these homes.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Department of Health and Hospitals and the Department of Insurance, in consultation with the Louisiana State Licensing Board for Contractors, to investigate the

health risks associated with living in homes that contain drywall imported from China, to study the potential homeowners insurance coverage issues, including triggers, endorsements, and exclusions to policies that are related to drywall imported from China, and to determine whether such material should be identified as a substandard, unsafe building material and report findings and recommendations to the legislature prior to the convening of the 2010 Regular Session of the Legislature.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Department of Health and Hospitals, the commissioner of the Department of Insurance, and the executive director of the Louisiana State Licensing Board for Contractors.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE