

Restorer's corner

Fine-tune your disaster restoration skills via Q&A with *CM/Cleanfax*® magazine's expert consultants.

by Richard Driscoll and Neal Seymour

Q. Is it necessary to have a business license for water damage restoration? If so, how can I obtain one and what should I look for?

A. Water restoration firms that expand into the fire restoration area face significantly different business challenges.



Driscoll



Seymour

It's really dangerous out there. All of us restorers have either been sued or heard horror stories from a fellow restorer about being sued.

In our American society, it is not if you will be sued, but it is *when* you will be sued.

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Having proper business and occupational licenses in place will greatly help the legal status of your water damage restoration business and provide important protection.

Are you properly licensed?

Before entering into the business of water damage restoration, you need to be sure that you have the appropriate business licenses.

Proper business licenses not only give you legal credibility as an entity, but they provide tangible proof of your right to conduct business.

A business license is something that is not only legally required, but it is an

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Questions, please

There's nothing more frustrating than having a question without access to an expert answer.

That's why *CM/Cleanfax*® magazine provides this monthly feature entitled "Restorer's corner."

Instead of choosing a topic each month, *CM/Cleanfax*® editorial staff is leaving that up to you, the readers.

Do you have a disaster restoration question you would like to ask? Simply e-mail it to Senior Editor Jeff Cross at jcross@cleanfax.com or send it to Jeff Cross, 13 Century Hill Drive, Latham, NY 12110.

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important tool that can be used to differentiate your water damage restoration business from the “suck and run” guys.

Most localities require every business to file an additional license for that particular business. The reasons for this are that they want to regulate business and they want to make sure you pay your taxes.

Different services may require different licenses. Remember that many local business license authorities may require you to file a separate local business license for water damage restoration.

If you perform restoration services, which require a state contractor's license, you will also have to file with your municipality for a separate business license under that category.

You usually can obtain the business license application from your tax collection office (treasurer's office) of your local municipality.

Many governments have the application available on the Internet at their website.

Filing your local business license

You start your local business license procedure by completing a business classification information form or a business license application form.

You will be asked for various information about your restoration business such as the official North American Industry Classification System (NAICS) code, estimated annual gross receipts (this will be required to determine the actual cost of the license), total original cost of equipment, furniture and fixtures (so they can establish tangible business property tax on the business assets) and total original cost of machinery and tools (so they can establish tangible business property tax on the business assets).

It is very important that you make sure you do not under-estimate your annual gross as the taxing authority, at

Stay on the side of the law

Water damage restoration firms need to have proper licenses in place to help prevent legal action from both government authorities and consumers.

A business license is an important, mandatory and legal tool, which can be used to differentiate your water damage restoration business from the “cowboys.”

Different services that your firm provides may require different local business licenses.

Water damage may be treated differently than carpet/upholstery cleaning.

Different municipalities may require a separate business for you to operate within that specific municipality. In metropolitan areas, this is very important.

Many states will require a valid state contractor's license if you provide water damage restoration services.

Understand the differences between *removing* and *replacing* materials in regard to state contractor license requirements.

The exact scope of your work (emergency response water extraction/drying, restoration and/or remediation) may determine the requirement for a state license.

Check with your state authorities on the exact differences in your state concerning water damage contracting and mold remediation.

— N.S. & R.D.

the end of the year, will require a final filing and any discrepancy can have you paying interest and penalties.

The local business license fee is essentially a tax. As with any tax matter, make sure you are never in default and that all information you provide is truthful.

Make sure you do not overlook budgeting for your business property tax. That bill will come at the end of each calendar year or typically by March of the following year.

You can never afford to be delinquent in payment of these taxes.

Different municipalities may require a license

Many times a restoration business is operating in a metropolitan area that encompasses many different, independent communities.

Make sure you check with each municipality in your area in which you plan to operate.

Many of them may require you to file a separate business license for each municipality. Don't believe they can't check up on this.

Tax compliance inspectors can stop tradesman's vans (as noted by the lettering on the van) performing a service in a community and challenge the business license for that community.

In some instances, the communities can levy fines or penalties for tradesmen conducting business in that particular community without a local business license. Don't take chances; check it out.

You will be required to post your original business license at your place of business. If your business is in your home, you may be required to post it in the room that you use as your office.

It is a good idea to make a photocopy of your local business license and carry it with you on your company vehicle.

You may never know when you may be asked to produce proof that you are legally licensed to conduct business.

Special state licenses

Some services you perform may require a state license.

Most states do not require a state license for carpet and upholstery cleaning. But many states will require a valid

state contractor's license if you provide any water damage restoration services to customers.

There is a "rule-of-thumb" in many licensing authorities that a water damage contractor may *not* be required to have a valid state contractor's license for just tearing-out damaged items such as sheetrock and floor covering.

However, this rule-of-thumb also essentially requires a water damage contractor to have a valid state contractor's license for installing anything back (such as trim, sheetrock, doors, flooring, etc.) Make sure you clearly understand the licensing requirements.

If a state license is required, you should obtain one because the penalties are prohibitive for contracting without a proper license.

State licenses are obtained from your state's Department of Professional and Occupational Regulation. A particular

board handles licenses for contractors.

Contact this office (quite often found in your state's capital) and ask for guidance concerning state licensing.

State contractor's license categories

Most contractors licensing is based on different categories.

Many states have adopted common contractor licensing models.

For instance, a class C license is for individual jobs less than \$7,500 each and a total contracting amount per year less than \$150,000.

Higher-level contractor licenses are a class A license, which usually requires minimum business net worth of \$45,000, and a class B license that typically requires a minimum business net worth of \$15,000.

Class A and class B licenses usually require license applicants to successfully

complete an oral/written licensure examination.

Many smaller restoration companies that operate in conjunction with carpet and upholstery cleaning will fall under the class C license. The class C license usually does not require the applicant to take the written contractor's test.

Special mold remediator licenses

We all know that water damage and mold go hand-in-hand. The same may be true in your professional licensing.

The majority of states do not differentiate between water damage restoration and mold remediation work.

However, some states require that firms involved in mold remediation be specially licensed (much along the lines of asbestos and lead abatement contractors).

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Don't assume that your water damage work license will automatically cover you in cases where you actually remove mold.

Check with your state authorities on the exact differences in your state concerning water damage contracting and mold remediation.

Applying for your state contractor's license

You can obtain the application from the board for contractors or can obtain the application online from the state's website for the Department of Professional and Occupational Regulation.

State contractor licenses will require information such as three-letter contractor license classification code, contractor work references, and owner's names, addresses and Social Security numbers.

Most states require that contractors

have no prior disciplinary action imposed by any local, state or national regulatory body, no prior felony convictions, no misdemeanor convictions within the last three years and no judgments, tax obligations or bond default within the last five years.

The state board will conduct a background check (including criminal check) on each applicant.

Once you receive your contractor's license, you will usually be provided a wallet-sized version.

You may be required to show this to code inspectors when you are performing restoration work.

Again, it is always a good idea to carry a copy of your contractor's license with you in your company vehicle (along with your local business license).

You never know when you will be challenged to produce them.

Licenses protect you

Don't fear the business or professional licensing process for your water damage restoration business.

Once you understand the technicalities, it will all make sense.

It is better to err on the side of law than try to get away without having the right tax and occupational licenses in place for your business.

Make no rash assumptions about license requirements. Check with the licensing authorities to make sure you understand what you do (and don't) need. □

Richard Driscoll is a semi-retired practicing water damage/mold remediator, and now teaches water damage restoration/mold remediation full-time, and is also an expert witness. Neal Seymour is an attorney and cleaning/restoration industry authority.



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