

BEWARE: HVAC Warranties VOID If Equipment Installed or Serviced by An Unlicensed Person!

A little known secret in the HVAC industry is that if you have your HVAC equipment installed or serviced by an unlicensed contractor, the warranty on your equipment might be **void!** Unfortunately, most consumers, even those who have thoroughly done their research before deciding which HVAC to purchase are not aware of this because this little known fact is rarely disclosed in any literature available on the internet or by unlicensed contractors. Hopefully the information contained in this article will educate the consumer of this very important fact. You will most likely not see a notice that the warranty may be voided on the manufacturer's website, the packaging, or on the equipment itself. Generally, you will only see it in the owner's paperwork which is too late.

Many consumers do not become aware of this restriction in their warranty until after they have read the warranty's fine print, which is usually not provided until they have purchased the HVAC unit and had it installed. However, in the vast majority of the cases, consumers do not become aware of this restriction until they have to make a claim for repairs during that time when they were lead to believe all repairs for the HVAC unit would be covered by the manufacturer's warranty.

The costs of repairing an HVAC unit is often significant, and is especially upsetting to consumers who may have purchased their new HVAC unit under the expectation that any problems that might occur with the HVAC unit during the first several years after it was installed, would be remedied under the unit's warrant, at no cost.

Is your warranty important to you?

There are a number of HVAC equipment manufacturers who specifically state in their warranties that the warranty is VOID if not installed and serviced by a licensed contractor.

Carrier, Trane and Lennox are three of the largest manufacturers of HVAC equipment.

Carrier Corporation specifically states in their "WARRANTY CONDITIONS"

“Product **must** be installed properly by a **licensed HVAC technician.**”

The **Trane** “Base Limited Warranty” specifically provides the following:

*“All repairs of Product parts covered under this limited warranty must be made with authorized service parts and by a **licensed HVAC service provider.**”*

ELIGIBILITY REQUIREMENTS:

*“The Products must be properly installed, operated, and maintained by a **licensed HVAC service provider...**”*

*Failure to conform to such specifications and /or instructions **shall void this limited warranty.***

EXCLUSIONS: *The following are not covered by this limited warranty:*

Products purchased direct including, but not limited to, internet or auction purchases and purchases made on an uninstalled basis.

The **Lennox** Quality Care Program Equipment Limited Warranty specifically provides that *“This new Lennox unit must be properly installed, operated and maintained by a **licensed professional installer...**”*

These manufacturer’s warranties are void if their equipment was not installed and/or serviced by a licensed HVAC contractor. This is extremely important today with the computerized, sophisticated conditioned air systems, which often costs hundreds of dollars to repair.

Licensed HVAC Contractors

A “*licensed HVAC contractor*” is different than contractor that has a business license from city or a county, or a corporation that is registered with the Georgia Secretary of State. A licensed HVAC contractor or a qualified business entity working with a licensed HVAC contractor has been issued a state-wide license by the Georgia Secretary of State, Division of the State Construction Industry Licensing Board’s Division of Conditioned Air Contractors (“the Division”). This license must be renewed every two years.

Every person holding such a license issued by the Division is required to display the license in a conspicuous manner in his place of business. In addition, all commercial vehicles used by a licensee in the daily operation of a qualified company are required to prominently display the company’s license number issued by the Division of Air Conditioned Air Contractors, and all qualified companies are required to prominently display this license number on any advertising found in phonebooks, newspapers, as well as all invoices and proposal forms. To verify the

validity and current status of a licensee's license, and to determine if any disciplinary action has been taken against the licensee by the Division, the consumer should go to the Secretary of State Professional Licensing, website: <http://verify.sos.ga.gov/verification/>, under the Profession "Conditioned Air." The license can be verified based on the licensee's license number, or the licensee's first and last name. A qualified business, operating under a licensed HVAC contractor should be listed under the licensed contractor's license.

There are two types of condition air contractor licenses. A **Class I (restricted)** or a **Class II (non-restricted)** conditioned air contractor license. A licensee holding a Class I license must have at least four years of experience in conditioned air work, which must include at least two years of residential installation experience as a lead mechanic, one year as a service technician (to include an E.P.A. license), one-year residential supervisory experience and a Board approved heat loss and gain and duct design course. Class I conditioned air contractors are restricted to installing and servicing conditioning involving conditioned air systems or equipment not exceeding 175 BTU of heat and 60,000 BTU of cooling. A licensee holding a Class II license must have at least five years of experience with the installation of conditioned air systems exceeding 175,00 (BTU) of heating and 60,000 BTU of cooling, which must include at least two years of installation as a lead mechanic, with at least one of the years being commercial only, one year as a service technician or service supervisor (to include E.P.A. license), two years of commercial supervisory experience, and Board approved heat loss and gain and duct design course. Class II licensees are licensed to engage in any type of conditioned air contracting.

Homeowners and property owners instinctively want their HVAC work done as economically as possible. Many times they are familiar with someone who "knows how" to work on HVAC equipment, who is willing to install and/or service their HVAC unit for less cost than a HVAC licensed contractor or qualified business. Though a HVAC contractor may have a business license issued by a city or county, they are not necessarily a HVAC state licensed contractor. A contractor engaged in HVAC contracting that does not have a license from the State Construction Industry Licensing Board's Division of Conditioned Air Contractors is in violation of O.C.G.A. §§ 43-1-20 and 43-14-8, which requires any person practicing in a profession or business required to be licensed by a professional licensing board, to have a valid professional license from the applicable licensing board.

Reasons to Use A Licensed Contractor

The purpose of state licensing HVAC contractors since 1949, as stated in § 43-14-1 of the Georgia Code, is *“safeguarding homeowners, other property owners, tenants, and the general public against faulty, inadequate, inefficient, or unsafe ... conditioned air installations.”* Licensed HVAC contractors, unlike unlicensed contractors must:

- Must demonstrate that they meet the Division’s qualifications and standards for a license;
- Must submit an application to the Division proving to the Division’s satisfaction that have the minimum required experience in HVAC contracting necessary to obtain a license;
- Must obtain a passing score on the Division’s HVAC test;
- Must provide the Division at least three references, approved by the Division, from persons who can attest to the licensee’s good character and conditioned air experience;
- Must complete at least four hours of continuing education per year conducted by an accredited college, university, or approved post-secondary institute;
- Must not engage in “unprofessional conduct” as defined by the Division[s rules, which would include, but is not limited to failing to obtain required permits and inspections, establishing a pattern of charging amounts substantially in excess of any original estimate, knowingly charging for unnecessary, diverting funds or property without specific authorization from the consumer, failing to disclose the name of the professional license holder, and failing to register the name of the qualified business, with whom the licensee holder is working for.
- Must respond to any queries from the Division presented to the licensee in response to complaints filed by members of the public, and act in accordance with any orders that may be issued by the Division following its investigation or a hearing regarding the complaint; and
- Must renew their professional license every two years.

In contrast, unlicensed contractors:

- Are not required to possess any minimum standards and qualifications pertaining to either their personal character or professional experience;
- Are not required to and thus may not receive annual continuing education, which would enable them to keep abreast of current HVAC technology and updates in service techniques;

- Are not governed by or bound by any standards of professional conduct;
- Are not required to comply any government agency decisions in response to complaints, other than the courts, which can get involved after a lawsuit has been filed;
- Cannot legally obtain a local building permit when required by a city or county. The failure to obtain a permit when required, could result in fines; and
- Cannot service most HVAC units under a warranty claim, (which assumes the unit was not installed or previously serviced by an unlicensed contractor, in which case the unit’s warranty may be void).

Suppliers Selling to Unlicensed Persons

Georgia law only provides that it is illegal to “install, repair or service” conditioned air equipment. So, while it is not illegal for a supplier to sell to unlicensed contractors, **The Conditioned Air Association of Georgia (CAAG)**, the professional trade association which represents the HVAC industry, highly discourages this practice, as do many of the manufacturers of HVAC equipment. Therefore, most reputable suppliers have a policy of only selling HVAC equipment to only licensed contractors. Thus, many unlicensed HVAC contractors must obtain HVAC equipment through the internet, or through other unauthorized sources, who may be selling stolen equipment or reconditioned units often represented as being new. HVAC equipment obtained by these means rarely comes with a manufacturer’s warranty. Occasionally, an unlicensed contractor will get a licensed HVAC contractor to purchase HVAC equipment for them. In this situation, the licensed HVAC contractor may lose his license for aiding and abetting unlicensed contracting, and the equipment, though purchased by a licensed contractor, if not installed by a licensed contractor or a qualified company, may not be covered under the manufacturer’s warranty.

What are a consumer’s rights of recourse if harmed?

By a Licensed Contractor:

If a consumer is harmed by a licensed contractor, he/she may contact the Licensing Board and file a formal complaint. If the Division initiates an investigation regarding the complaint, the licensed contractor must cooperate with the investigation, respond to the Division’s requests, and/or participate in any hearings

conducted by the Division, or Office of State Administrative Hearings. A licensed contractor may be sanctioned for:

- Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which materially affects the fitness of the licensed contractors to practice;
- Knowingly performing any act which in any way aids, assists, procures, advises or encourages any unlicensed person to practice business without a license;
- Violating a statute, a law, or any rule or regulation which is regulated by the Division;
- Having been adjudged mentally incompetent by a court;
- Displaying an inability to practice HVAC contracting with reasonable skill and safety to the public by reason of illness, use of alcohol, or narcotics; and
- Failing to comply with an order for child support;

He/she may also contact CAAG and we will work with the contractor, the property owner and the licensing board to try to resolve the problem.

By an Unlicensed Contractor

If the harm is caused by an unlicensed contractor the consumer can file a lawsuit against the unlicensed contractor. In addition, the Division upon receipt of a complaint which is supported with admissible evidence, may following a hearing at which that evidence must be presented, order the unlicensed contractor to stop engaging in unlicensed contracting. The unlicensed contractor may also be fined for any engaging in any subsequent acts of unlicensed contracting that the Division is able to prove occurred. However, when dealing with an unlicensed contractor the Division has no power to provide the complainant with any direct remedies.

Conclusion

Although a consumer might initially save on the costs of installation or service of an HVAC unit, if performed by an unlicensed contractor, in the long run, those financial benefits might be wiped if that unit is not installed or repaired properly, or if any claims under the manufacturers' HVAC unit's warranty are made. Which

brings us to the ancient Latin phrase which is very relevant in this situation,
“Caveat emptor” or “let the buyer beware!”

For more information, contact
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*File: ca/doc/unlicensed contractors/attorney general comments/article about
warranties void.doc*