

House Bill 1003

By: Representatives Powell of the 23<sup>rd</sup>, Westmoreland of the 86<sup>th</sup>, Stoner of the 34<sup>th</sup>, Post 1, DeLoach of the 127<sup>th</sup>, and Boggs of the 145<sup>th</sup>

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and  
2 businesses, so as to create the State Licensing Board for Residential and General Contractors;  
3 to define certain terms; to provide for the composition, powers, and duties of the board; to  
4 provide for the licensing of residential and general contractors; to provide for fees and an  
5 examination; to provide for the revocation of licenses; to provide for the renewal of licenses;  
6 to provide penalties for engaging in residential or general contracting without a valid license;  
7 to provide for matters relative to the foregoing; to provide an effective date; to repeal  
8 conflicting laws; and for other purposes.

9                   **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10                   **SECTION 1.**

11 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
12 is amended by inserting immediately following Chapter 40 the following:

13                   **"CHAPTER 41**

14       43-41-1.

15 It is the intent of the General Assembly to safeguard homeowners, other property owners,  
16 tenants, and the general public against faulty, inadequate, inefficient, and unsafe residential  
17 and general contractors. The practice of residential and general contracting is declared to  
18 be a business or profession affecting the public interest and this chapter shall be liberally  
19 construed so as to accomplish the intent and purposes stated in this Code section.

20       43-41-2.

21 As used in this chapter, the term:

22       (1) 'Board' means the State Licensing Board for Residential and General Contractors.

1       (2) 'Contractor' means the person who is qualified for and shall only be responsible for  
2       the project contracted for and means, except as exempted by this chapter, the person who,  
3       for compensation, undertakes to, submits a bid to, or does himself or herself or by others  
4       construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building  
5       or structure, including related improvements to real estate, for others or for resale to  
6       others and whose job scope is substantially similar to the job scope described in the  
7       definitions of general contractor or residential contractor in this Code section. Both  
8       residential and general contractors shall be eligible to construct storm water management  
9       systems which are wholly contained within the project site and are not part of or  
10      connected to any public system.

11      (3) 'General contractor' means a contractor whose services are unlimited as to the type  
12      of work which he or she may do, who may contract for any activity requiring licensure  
13      under this chapter, and who may perform any work requiring licensure under this chapter,  
14      except as expressly provided for in Code Section 43-14-2. The construction of all  
15      commercial buildings and structures shall be undertaken by a general contractor, except  
16      as provided for in Code Section 43-14-13.

17      (4) 'Residential contractor' means any person, firm, or corporation that, for a fixed price,  
18      commission, fee, or wage, undertakes to bid upon or to construct or that undertakes to  
19      superintend or manage, on his or her own behalf or for any person, firm, or corporation  
20      that is not licensed as a licensed residential contractor pursuant to this chapter, the  
21      construction of any single-family residence or any improvement to any such structure  
22      where the cost of the undertaking is \$30,000.00 or more. Such term shall not include any  
23      person that constructs or alters a building on land owned by that person if such building  
24      is intended solely for occupancy by that person and his or her family, firm, or corporation  
25      after completion and does not exceed the size and building use limitations defined in  
26      Code Section 43-4-14; provided, however, that, if such building is not occupied solely  
27      by such person and his or her family, firm, or corporation for at least 12 months following  
28      completion, it shall be presumed that the person, firm, or corporation did not intend such  
29      building solely for occupancy by that person and his or her family, firm, or corporation.

30      43-41-3.

31      (a) There is created the State Licensing Board for Residential and General Contractors  
32      consisting of 16 members appointed by the Governor for five-year terms. The board shall  
33      be assigned to the Secretary of State's office for administrative purposes and shall be  
34      under the jurisdiction of the division director. The board shall be comprised of two  
35      divisions, the residential contractor division and the general contractor division.

1       (b) The residential contractor division shall consist of nine members. Five members shall  
2       be licensed residential contractors, two of whom shall be small volume builders and all of  
3       whom must be geographically diverse; one member shall be a registered engineer who  
4       practices structural engineering; and three members shall be public members. The public  
5       members shall have no ties with the residential construction industry and shall represent  
6       the interests of the public at large. Members shall serve until the expiration of their  
7       respective terms and until their successors are appointed and qualified. Vacancies  
8       occurring during a term shall be filled by appointment of the Governor for the remainder  
9       of the unexpired term. The Governor may remove any member of the board for  
10      misconduct, incompetence, or neglect of duty.

11      (c) The general contractor division shall consist of seven members. Five members shall  
12      be licensed general contractors, two of whom shall be small volume builders and all of  
13      whom must be geographically diverse; one member shall be a registered architect or  
14      engineer; and one member shall be a public building official. The initial member terms on  
15      the division shall be staggered so that all terms do not expire simultaneously. Three  
16      members shall serve initial terms of five years, three members shall serve initial terms of  
17      four years, and one member shall serve an initial term of three years. Members shall serve  
18      until the expiration of their respective terms and until their successors are appointed and  
19      qualified. Vacancies occurring during a term shall be filled by appointment of the  
20      Governor for the remainder of the unexpired term. The Governor may remove any member  
21      of the board for misconduct, incompetence, or neglect of duty. The division shall meet at  
22      least six times each year for the purpose of transacting such business as may properly come  
23      before it. Due notice of each meeting and the time and place thereof shall be given to each  
24      member in such manner as the bylaws of the board may provide. Four members of the  
25      division shall constitute a quorum

26      43-41-4.

27      The board shall meet within 30 days after its appointment by the Governor at a time and  
28      place to be designated by the Governor and organize by electing a chairperson, a vice  
29      chairperson, and a secretary-treasurer, each to serve for one year. The board shall have  
30      power to make such rules and regulations as it deems appropriate, provided the same are  
31      not in conflict with the laws of this state. The secretary-treasurer need not be a member of  
32      the board, and the board is authorized to employ a full-time secretary-treasurer and such  
33      other assistants and make such other expenditures as may be necessary to the proper  
34      carrying out of the provisions of this chapter.

1      43-41-5.

2      The board shall meet at least twice each year for the purpose of transacting such business  
3      as may properly come before it. Due notice of each meeting and the time and place thereof  
4      shall be given to each member in such manner as the bylaws of the board may provide.  
5      Seven members of the board shall constitute a quorum. The board and its divisions shall  
6      have the power to:

- 7      (1) Request from the various state departments and other agencies and authorities of the  
8      state and its political subdivisions and their agencies and authorities such available  
9      information as it may require in its work; and all such agencies and authorities shall  
10     furnish such requested available information to the board within a reasonable time;
- 11     (2) Provide by regulation for reciprocity with other states in the registration and licensing  
12     of residential contractors, provided that such other states have requirements substantially  
13     equal to the requirements in force in this state for registration, licensure, and certification;  
14     provided, further, that a similar privilege is offered to residents of this state; and
- 15     (3) Adjust fees on an annual basis.

16     43-41-6.

17     The secretary-treasurer shall keep a record of the proceedings of the board and a register  
18     of all applicants for licenses showing for each the date of application, name, qualifications,  
19     place of business, place of residence, affiliated entities, and whether a license was granted  
20     or refused. The secretary-treasurer shall also prepare during January of each year a roster  
21     showing the names, places of business, affiliated entities, and places of residence of all  
22     licensed residential contractors; such roster shall be printed by the board, with copies  
23     available to licensed residential and general contractors and members of the public, at cost,  
24     upon request, or furnished without cost, as directed by the board. On or before March 1  
25     of each year, the board shall submit to the Governor a report of its transactions for the  
26     preceding year and shall file with the Secretary of State a copy of such report, together with  
27     a complete statement of the receipts and expenditures of the board, attested by the  
28     affidavits of the chairperson and the secretary-treasurer, and a copy of the roster of licensed  
29     residential and general contractors.

30     43-41-7.

31     (a) Anyone seeking to be licensed as a residential contractor in this state shall file an  
32     application for an examination on a form provided by the residential contractor division  
33     accompanied by an examination fee of \$50.00, together with \$100.00 for the license.  
34     Before being entitled to an examination, an applicant must show to the satisfaction of the  
35     residential contractor division from the application and proofs furnished that the applicant

1 is possessed of a good character and is otherwise qualified as to competency, ability,  
2 integrity, and financial responsibility. The application shall include a list of all entities that  
3 the applicant will be affiliated with as a licensed residential contractor. All applicants shall  
4 provide proof of general liability insurance in an amount which is not less than that  
5 specified by the residential contractor division and proof of workers' compensation  
6 insurance as required by the laws of this state in their name or that of an affiliated entity.  
7 A certificate by the insurer or other appropriate evidence of such coverages shall be  
8 maintained with the residential contractor division and shall be a condition of renewal. A  
9 licensee must notify the residential contractor division in writing within 30 days of any  
10 changes in the information required to be on file with the division, including, but not  
11 limited to, the licensee's current mailing address, insurance coverages, and affiliated  
12 entities.

13 (b) The residential contractor division shall conduct an examination, either oral or written,  
14 of all applicants to ascertain the applicant's ability to make a practical application of his  
15 or her knowledge of the profession of residential construction and to ascertain the  
16 applicant's qualifications in reading plans and specifications, his or her knowledge of  
17 estimating costs, construction, ethics, and other similar matters pertaining to the residential  
18 contracting business, and his or her knowledge as to the responsibilities of a residential  
19 contractor to the public and the requirements of the laws of this state relating to residential  
20 contractors, construction, and liens. If the results of the applicant's examination are  
21 satisfactory to the division, then the division shall issue to the applicant a certificate to  
22 engage in business as a residential contractor in this state, as provided in such certificate.

23 (c) Anyone failing this examination may be reexamined at any regularly scheduled  
24 examination time upon payment of a reexamination fee of \$25.00. Anyone requesting to  
25 take the examination a third or subsequent time shall submit a new application with the  
26 appropriate examination and license fees. Certificates of license shall expire on December  
27 31 following their issuance or renewal and shall become invalid 60 days from that date  
28 unless renewed, subject to the approval of the residential contractor division. Renewals  
29 may be effected any time during January without reexamination by the payment of a fee  
30 of \$75.00 to the secretary-treasurer. Renewal applications shall be accompanied by  
31 evidence of continued financial responsibility and insurance coverages satisfactory to the  
32 division. Renewal applications received by the division after January shall be accompanied  
33 by a late fee of \$10.00 for each month or part of a month after January. After a lapse of  
34 two years, no renewal shall be effected, and the applicant shall fulfill all requirements of  
35 a new applicant as set forth in this Code section. As a condition of renewal, the division  
36 may require licensees to complete division approved continuing education of not more than  
37 three hours annually.

1      43-41-8.

2      (a) Anyone seeking to be licensed as a general contractor in this state shall file an  
3      application for an examination on a form provided by the general contractor division  
4      accompanied by an examination fee as provided by the board.

5      (b) A person shall be eligible for licensure by examination if the person:

6            (1) Is 21 years of age; and

7            (2) Meets eligibility requirements according to one of the following criteria:

8                (A) Has received a baccalaureate degree from an accredited four-year college or  
9      university in the appropriate field of engineering, architecture, or building construction  
10     and has one year of proven experience in the category in which the person seeks to  
11     qualify. For the purpose of this subparagraph, a minimum of 2,000 person-hours shall  
12     be used in determining full-time equivalency;

13                (B) Has a total of at least four years of active experience as a worker who has learned  
14      the trade by serving an apprenticeship as a skilled worker who is able to command the  
15      rate of a mechanic in the particular trade or as a foreman who is in charge of a group  
16      of workers and usually is responsible to a superintendent or a contractor or his or her  
17      equivalent; provided, however, that at least one year of active experience shall be as a  
18      foreman; or

19                (C) Has a combination of not less than one year of experience as a foreman and not  
20      less than three years of credits for any accredited college-level courses; has a  
21      combination of not less than one year of experience as a skilled worker, one year of  
22      experience as a foreman, and not less than two years of credits for any accredited  
23      college-level courses; or has a combination of not less than two years of experience as  
24      a skilled worker, one year of experience as a foreman, and not less than one year of  
25      credits for any accredited college-level courses. All junior college or community  
26      college-level courses shall be considered accredited college-level courses.

27      (c) With respect to an application for a license, the initial application fee shall not exceed  
28      \$100.00 and, if an examination cost is included in the application fee, the combined amount  
29      shall not exceed \$200.00. However, any applicant who seeks a license under this Code  
30      section by taking a practical examination must pay as an examination fee the actual cost  
31      incurred by the general contractor division in developing, preparing, administering,  
32      scoring, score reporting, and evaluating the examination, if the examination is conducted  
33      by the division.

34      (d) Before being entitled to an examination, an applicant must show to the satisfaction of  
35      the general contractor division from the application and proofs furnished that the applicant  
36      is possessed of a good character and is otherwise qualified as to competency, ability,  
37      integrity, and financial responsibility. The application shall include a list of all entities that

1 the applicant will be affiliated with as a licensed general contractor. All applicants shall  
2 provide proof of general liability insurance, net worth, and bonding capacity in an amount  
3 which is not less than that specified by the division and proof of workers' compensation  
4 insurance as required by the laws of this state in their name or that of an affiliated entity.  
5 All applicants shall also provide verification of tax payment in a form and manner  
6 prescribed by the division. A certificate by the insurer or other appropriate evidence of  
7 such coverages shall be maintained with the division and shall be a condition of renewal.  
8 A licensee must notify the division in writing within 30 days of any changes in the  
9 information required to be on file with the division, including, but not limited to, the  
10 licensee's current mailing address, insurance coverages, and affiliated entities.

11 (e) The general contractor division shall conduct a written examination of all applicants  
12 to ascertain the applicant's ability to make a practical application of his or her knowledge  
13 of the profession of commercial general contracting; the applicant's qualifications in  
14 reading plans and specifications; his or her knowledge of estimating costs, construction,  
15 ethics, and other similar matters pertaining to the commercial general contracting business;  
16 and his or her knowledge as to the responsibilities of a general contractor to the public and  
17 of the requirements of the laws of this state relating to general contractors, construction,  
18 and liens. If the results of the applicant's examination are satisfactory to the division, then  
19 the division shall issue to the applicant a license to engage in business as a general  
20 contractor in this state, as provided in such license.

21 (f) Anyone failing this examination may be reexamined at any regularly scheduled  
22 examination time upon payment of a reexamination fee of \$25.00. Anyone requesting to  
23 take the examination a third or subsequent time shall submit a new application with the  
24 appropriate examination and license fees. Certificates of license shall expire on December  
25 31 following their issuance or renewal and shall become invalid 60 days from that date  
26 unless renewed, subject to the approval of the division. Renewals may be effected any time  
27 during January without reexamination by the payment of a fee of \$75.00 to the  
28 secretary-treasurer. Renewal applications shall be accompanied by evidence of continued  
29 financial responsibility by submitting an audited financial statement and insurance  
30 coverages satisfactory to the division. Renewal applications received by the division after  
31 January shall be accompanied by a late fee of \$10.00 for each month or part of a month  
32 after January. After a lapse of two years, no renewal shall be effected, and the applicant  
33 shall fulfill all requirements of a new applicant as set forth in this Code section. As a  
34 condition of renewal, the general contractor division may require licensees to complete  
35 board approved continuing education of not more than eight hours annually.

1      43-41-9.

2      A licensed residential contractor and any affiliated entities shall offer a written warranty  
3      in connection with each contract to construct, or superintend or manage the construction  
4      of, any single-family residence where the cost of the undertaking is \$30,000.00 or more.  
5      The parties to the warranty may agree to submit any or all disputes arising under the  
6      warranty to arbitration. Such agreement to arbitrate shall be enforceable as provided in  
7      Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code.'

8      43-41-10.

9      (a) Notwithstanding any other provision of this chapter, until and including July 1, 2004,  
10     the following persons desiring to qualify under the provisions of this subsection shall be  
11     issued a state-wide residential contractor license by the residential contractor division,  
12     provided that such person submits proper application and pays or has paid the required fees  
13     and is not otherwise in violation of this chapter:

14     (1) Any person holding a license to engage in residential contracting issued to him or her  
15     by any governing authority of any political subdivision which requires passing a written  
16     examination to obtain such license; or

17     (2) Any person who has successfully and efficiently engaged in residential contracting  
18     in this state. To prove that he or she has successfully engaged in residential contracting,  
19     the person shall only be required to give evidence of three successful residential  
20     contracting jobs completed over the period of five years immediately prior to the time of  
21     application, evidence of ten successful residential contracting jobs over the period of ten  
22     years immediately prior to the time of application, or evidence that he or she has  
23     participated in or been engaged in residential contracting for seven of the ten years  
24     immediately prior to the time of application. Such applicant shall swear before a notary  
25     public that such evidence is true and accurate prior to its submission to the division.

26     (b) The decision of the division as to the qualifications of applicants taking the required  
27     examination shall, in the absence of fraud, be conclusive.

28     (c) On and after July 1, 2004, no partnership, corporation, or other legal entity shall have  
29     the right to engage in the business of residential contracting unless there is regularly  
30     connected with such entity a person or persons who have valid residential contractor  
31     licenses issued to them as provided in this chapter.

32     (d) The provisions of this Code section shall preempt any local ordinance which might be  
33     enacted after the effective date of this chapter.

1 43-41-11.

2 (a) Notwithstanding any other provision of this chapter, until and including July 1, 2004,  
3 the following persons desiring to qualify under the provisions of this subsection shall be  
4 issued a state-wide general contractor license by the general contractor division, provided  
5 that such person submits proper application and pays or has paid the required fees and is  
6 not otherwise in violation of this chapter:

7 (1) Any person holding a license to engage in general contracting issued to him or her  
8 by any governing authority of any political subdivision which requires passing a written  
9 examination which is substantially similar to the Georgia examination for general  
10 contractors that is incorporated as a Georgia business; or

11 (2) Any person who has successfully and efficiently engaged in general contracting in  
12 this state. To prove that he or she has successfully engaged in commercial general  
13 contracting, the person shall only be required to give evidence of five successful  
14 commercial general contracting jobs completed over the period of five years immediately  
15 prior to the time of application or evidence of ten successful general contracting jobs over  
16 the period of ten years immediately prior to the time of application. Such applicant shall  
17 swear before a notary public that such evidence is true and accurate prior to its  
18 submission to the division.

19 (b) The decision of the division as to the qualifications of applicants taking the required  
20 examination shall, in the absence of fraud, be conclusive.

21 (c) On and after July 1, 2004, no partnership, corporation, or other legal entity shall have  
22 the right to engage in the business of commercial general contracting unless there is  
23 regularly connected with such entity a person or persons who have valid general contractor  
24 licenses issued to them as provided in this chapter.

25 (d) The provisions of this Code section shall preempt any local ordinance governing the  
26 licensing or registration of commercial general contractors.

27 43-41-12.

28 (a) The residential contractor division shall have the power to revoke the license of any  
29 residential contractor licensed under this chapter who is found guilty of any fraud or deceit  
30 in obtaining a license, gross negligence, incompetence, or misconduct in the practice of his  
31 or her profession or willful violation of any provisions of this chapter. Any person may  
32 prefer charges of such fraud, deceit, negligence, incompetence, or misconduct against any  
33 residential contractor licensed under this chapter. Such charges shall be in writing and  
34 sworn to by the complainant and submitted to the division. Such charges, unless dismissed  
35 without hearing by the division as unfounded, shall be heard and determined by the

1 division in accordance with the provisions of Chapter 13 of Title 50, the 'Georgia  
2 Administrative Procedure Act.'

3 (b) The division shall adopt and publish rules and regulations, consistent with the  
4 provisions of this chapter, governing the suspension and revocation of licenses.

5 (c) The division shall establish and maintain a system whereby detailed records are kept  
6 regarding complaints against each licensee. This record shall include, for each licensee,  
7 the date and nature of each complaint, investigatory action taken by the division, any  
8 findings by the division, and the disposition of the matter.

9 (d) The division may reissue a license to any person whose license has been revoked;  
10 provided, however, that five or more members of the division vote in favor of such  
11 reissuance for reasons the board deems sufficient.

12 (e) The board shall immediately notify the Secretary of State of its findings in the case of  
13 the revocation of a license or of the reissuance of a revoked license.

14 43-41-13.

15 (a) The general contractor division shall have the power to revoke the license of any  
16 general contractor licensed under this chapter who is found guilty of any fraud or deceit in  
17 obtaining a license, gross negligence, incompetence, or misconduct in the practice of his  
18 or her profession or willful violation of any provisions of this chapter.

19 (b) No person shall:

20 (1) Falsely hold himself or herself or a business organization out as a general contractor  
21 licensee;

22 (2) Present as his or her own the general contractor license of another;

23 (3) Knowingly give false or forged evidence to the board, the general contractor division,  
24 or a member thereof;

25 (4) Use or attempt to use a general contractor license that has been suspended or  
26 revoked;

27 (5) Engage in the business or act in the capacity of a contractor or advertise himself or  
28 herself or a business organization as available to engage in the business or act in the  
29 capacity of a general contractor without being duly licensed under this chapter;

30 (6) Operate a business organization engaged in contracting after 90 days following the  
31 termination of its only qualifying agent without designating another primary qualifying  
32 agent; or

33 (7) Commence or perform work for which a building permit is required without such  
34 building permit being in effect.

35 (c) For purposes of this Code section, a person or business organization operating on an  
36 inactive or suspended license shall be considered unlicensed.

- 1       (d) Any unlicensed person who violates any of the provisions of this Code section shall  
2       be guilty of a misdemeanor.
- 3       (e) The division may issue a stop-work order for all unlicensed work on a project upon  
4       finding probable cause to believe that construction work, which requires a license, is being  
5       performed without a current, valid license.
- 6       (f) Any person may file charges of fraud, deceit, negligence, incompetence, or misconduct  
7       against any general contractor licensed under this chapter. Such charges shall be in writing  
8       and sworn to by the complainant and submitted to the division. Such charges, unless  
9       dismissed without hearing by the division as unfounded, shall be heard and determined by  
10      the division in accordance with the provisions of Chapter 13 of Title 50, the 'Georgia  
11      Administrative Procedure Act.'
- 12      (g) The division shall adopt and publish rules and regulations, consistent with the  
13      provisions of this chapter, governing the suspension and revocation of licenses.
- 14      (h) The division shall establish and maintain a system whereby detailed records are kept  
15      regarding complaints against each licensee. This record shall include, for each licensee,  
16      the date and nature of each complaint, investigatory action taken by the division, any  
17      findings by the division, and the disposition of the matter.
- 18      (i) The division may reissue a license to any person whose license has been revoked;  
19      provided, however, that four or more members of the division vote in favor of such  
20      reissuance for reasons the division deems sufficient.
- 21      (j) The division shall immediately notify the Secretary of State of its findings in the case  
22      of the revocation of a license or of the reissuance of a revoked license.

23      43-41-14.

- 24      (a) The issuance of a license by the residential contractor division shall be evidence that  
25      the person named therein is entitled to all the rights and privileges of a licensed residential  
26      contractor while such license remains unrevoked or unexpired.
- 27      (b) The issuance of a license by the general contractor division shall be evidence that the  
28      person named therein is entitled to all the rights and privileges of a licensed general  
29      contractor while such license remains unrevoked or unexpired.

30      43-41-15.

- 31      (a) Any person not being duly authorized who shall contract for or bid upon the  
32      construction of any of the projects or works enumerated in the definition of residential  
33      contractor in Code Section 43-41-2 without having first complied with the provisions of  
34      this chapter or who shall attempt to practice residential contracting in this state except as  
35      provided for in this chapter, any person representing or attempting to file as his or her own

1 the licensed certificate of another, who shall give false or forged evidence of any kind to  
2 the board or to any member of the board in maintaining a license, who falsely shall  
3 impersonate another, who shall use an expired or revoked license, and any architect or  
4 engineer who recommends to any project owner the award of a contract to anyone not  
5 properly licensed under this chapter shall be deemed guilty of a misdemeanor and shall,  
6 upon conviction, be punished for each such offense by a fine of not less than \$500.00, or  
7 imprisonment of three months, or both fine and imprisonment in the discretion of the court.

8 (b) Any person not being duly authorized who shall contract for or bid upon the  
9 construction of any of the projects or works enumerated in the definition of residential or  
10 general contractor in Code Section 43-41-2 without having first complied with the  
11 provisions of this chapter or who shall attempt to practice residential or general contracting  
12 in this state except as provided for in this chapter, any person representing or attempting  
13 to file as his or her own the licensed certificate of another, who shall give false or forged  
14 evidence of any kind to the board or to any member of the board in maintaining a license,  
15 who falsely shall impersonate another, who shall use an expired or revoked license, and  
16 any architect or engineer who recommends to any project owner the award of a contract  
17 to anyone not properly licensed under this chapter shall be subject to disciplinary action by  
18 his or her respective division.

19 (c) As a matter of public policy, contracts entered into on and after July 1, 2004, and  
20 performed in full or in part by any residential or general contractor who fails to obtain or  
21 maintain a license in accordance with this chapter shall be unenforceable in law or in  
22 equity.

23 43-41-16.

24 Whenever it appears to the board or either division of the board that any person, firm, or  
25 corporation is violating any of the provisions of this chapter or of the rules and regulations  
26 of the board or either division promulgated under this chapter, the board or other division  
27 may apply to the superior court for a restraining order and injunction to restrain the  
28 violation, and the superior court shall have jurisdiction to grant the requested relief,  
29 irrespective of whether or not criminal prosecution has been instituted or administrative  
30 sanctions have been imposed by reason of the violation.

31 43-41-17.

32 (a) Any person, firm, or corporation, upon making application to the building inspector or  
33 such other authority of any incorporated city, town, or county in this state charged with the  
34 duty of issuing building or other permits for the construction of any single-family dwelling  
35 or any improvement to any such structure where the cost thereof is to be \$30,000.00 or

1 more shall, before being entitled to the issuance of such permit, furnish to such inspector  
2 or authority his or her residential contractor licensing number and any affiliated entities that  
3 are contracting to construct or to superintend or manage the construction. It shall be  
4 unlawful for any such building inspector or other authority to issue or allow the issuance  
5 of such building permit unless the applicant has furnished his or her residential contractor  
6 licensing number and listed any affiliated entities under this chapter to carry out or to  
7 superintend or manage the work for which a permit has been applied. A building inspector  
8 or other authority shall issue such building permit under the terms of this Code section to  
9 any person, firm, or corporation upon evidence of an affiliated licensed residential  
10 contractor. Any building inspector or other such authority that is subject to and violates  
11 the terms of this Code section shall be guilty of a misdemeanor and subject to a fine of not  
12 more than \$500.00.

13 (b) Any person, firm, or corporation, upon making application to the building inspector  
14 or such other authority of any incorporated city, town, or county in this state charged with  
15 the duty of issuing building or other permits for the construction of commercial projects  
16 shall, before being entitled to the issuance of such permit, furnish to such inspector or  
17 authority his or her general contractor licensing number and any affiliated entities that are  
18 contracting to construct or to superintend or manage the construction. It shall be unlawful  
19 for any such building inspector or other authority to issue or allow the issuance of such  
20 building permit unless the applicant has furnished his or her general contractor licensing  
21 number and listed any affiliated entities under this chapter to carry out or to superintend  
22 or manage the work for which a permit has been applied. A building inspector or other  
23 authority shall issue such building permit under the terms of this Code section to any  
24 person, firm, or corporation upon evidence of an affiliated licensed general contractor.  
25 Any building inspector or other such authority that is subject to and violates the terms of  
26 this Code section shall be guilty of a misdemeanor and subject to a fine of not more than  
27 \$500.00.

28 43-41-18.

29 If an incomplete contract exists at the time of death of a residential or general contractor,  
30 the contract may be completed by any person even though not licensed under this chapter.  
31 Such person shall notify the appropriate division of the board within 30 days after the death  
32 of such contractor of his or her name and address, knowledge of the contract, and ability  
33 to complete it. If the appropriate division approves, he or she may proceed with the  
34 contract. For purposes of this Code section, an incomplete contract is one which has been  
35 awarded to or entered into by the contractor before his or her death or on which he or she

1    was the low bidder and the contract is subsequently awarded to him or her, regardless of  
2    whether any actual work has commenced under the contract before the contractor's death.

3    43-41-19.

4    (a) The appropriate division of the board may undertake disciplinary action against a  
5    license holder for any of the following acts:

6       (1) Obtaining a license by fraud or misrepresentation;

7       (2) Being convicted or found guilty of or entering a plea of guilty or nolo contendere to  
8       a crime in any jurisdiction which directly relates to the practice of residential or general  
9       contracting or the ability to practice contracting.

10      (3) Performing any act which assists a person or entity in the prohibited unlicensed  
11     practice of contracting if the licensee knows or has reasonable grounds to know that the  
12     person or entity is unlicensed;

13      (4) Knowingly combining or conspiring with an unlicensed person by allowing his or her  
14     license to be used with the intent to evade the provisions of this chapter. When a license  
15     holder allows his or her license to be used by one or more business organizations without  
16     having any active participation in the operations, management, or control of such  
17     business organizations, such act constitutes *prima-facie* evidence of an intent to evade the  
18     provisions of this chapter;

19      (5) Failing in any material respect to comply with the provisions of this chapter or  
20     violating a rule or lawful order of the board or its divisions;

21      (6) Abandoning a construction project in which the contractor is engaged or under  
22     contract as a contractor. A project may be presumed abandoned after 90 days if the  
23     contractor terminates the project without just cause or without proper notification to the  
24     owner, including the reason for the termination, or fails to perform work without just  
25     cause for 90 consecutive days;

26      (7) Signing a statement with respect to a project or contract falsely indicating that the  
27     work is bonded; falsely indicating that payment has been made for all subcontracted  
28     work, labor, and materials which results in a financial loss to the owner, purchaser, or  
29     contractor; or falsely indicating that worker's compensation and public liability insurance  
30     are provided;

31      (8) Committing fraud or deceit in the practice of contracting;

32      (9) Committing gross negligence, repeated negligence, or negligence resulting in a  
33     significant danger to life or property;

34      (10) Proceeding on any job without obtaining applicable local building permits and  
35     inspections; or

(11) Failing to satisfy within a reasonable time the terms of a civil judgment obtained against the licensee or the business organization qualified by the licensee relating to the practice of the licensee's profession.

(b) The appropriate division may take any one or more of the following actions against any license holder found by the division to have committed any one or more of the acts listed in subsection (a) of this Code section:

- (1) Place the license holder on probation or reprimand the license holder;
  - (2) Revoke, suspend, or deny the issuance or renewal of the license;
  - (3) Require financial restitution to a consumer for financial harm directly related to a violation of a provision of this chapter;
  - (4) Impose an administrative fine not to exceed \$5,000.00 for each violation;
  - (5) Require continuing education; or
  - (6) Assess costs associated with the investigation and prosecution.

(c) In determining penalties in any final order of the board or a division, the board or division shall follow the penalty guidelines established by the board or division's rules and regulations.

(d) The board or a division may assess interest or penalties on all fines imposed under this chapter against any person or business organization which has not paid the imposed fine by the due date established by rule, regulation, or final order.

(e) If the board or a division finds any contractor has violated the provisions of this chapter, the board or a division may as a part of its disciplinary action require such contractor to obtain continuing education in the areas of contracting affected by such violation."

## SECTION 2.

25 This Act shall become effective on January 1, 2004.

### SECTION 3.

27 All laws and parts of laws in conflict with this Act are repealed.