

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 1003:

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 exceptions; to provide for matters relative to the foregoing; to provide an
8 effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
11 is amended by adding a new Chapter 41 to read as follows:
12

"CHAPTER 41

13
14 43-41-1.

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

21 43-41-2.

22 As used in this chapter, the term:

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

1 (2) 'Business organization' means any partnership, corporation, limited liability entity,
2 business trust, joint venture, or other legal entity, other than an individual person, doing
3 business or seeking, offering, or contracting to do business as a contractor or otherwise
4 performing or acting as a contractor as defined in this Code section.

5 (3) 'Contracting' means performing or causing to be performed any of the activities set
6 forth in paragraphs (4), (5), (9), (10), and (11) of this Code section which define the types
7 of contractors. The offering of contracting services and the negotiation of or bid or
8 proposal for engagement or a contract requiring performance of these services also
9 constitutes contracting.

10 (4) 'Contractor,' except as specifically exempted by this chapter, means a person who is
11 qualified under this chapter and who, for compensation, contracts to, offers to undertake
12 or undertakes to, submits a bid or a proposal to, or personally or by others performs the
13 construction or the management of the construction of improvements to real property for
14 an owner, including the construction or improvement of, addition to, or the repair,
15 alteration, remodeling, or demolition of any building, bridge, or other structure, including
16 related improvements to the real property, for use by the owner or by others or for resale
17 to others. The term 'contractor' for purposes of this chapter shall include a person who
18 contracts to, undertakes to, or submits a bid or proposal to perform, or otherwise does
19 himself or herself perform, for an owner:

20 (A) Construction management services relative to the performance by others of such
21 construction activities where the person performing such construction management
22 services is at risk contractually to the owner for the performance and cost of the
23 construction; and

24 (B) Services of a contractor as part of performance of design-build services, whether
25 as a prime contractor, joint venture partner, or as a subcontractor to a design
26 professional acting as prime contractor as part of a design-build entity or combination.
27 Both residential and general contractors, in addition to contractors licensed under
28 Chapter 14 of this title to perform such work or any component thereof, shall be
29 permitted to construct storm-water management systems comprising any storm-water
30 conveyance or storm-water detention facility that moves storm or surface water from a
31 specific point on a wholly contained construction project site to another specific point on
32 the same project site and which are wholly contained within the project site and are not
33 part of or connected to any public or private water treatment system, waste-water
34 treatment system, or storm-water system.

35 (5) 'General contractor' means a contractor whose services are unlimited as to the type
36 of work which he or she may do and who may contract for, undertake to perform, submit
37 a bid or a proposal or otherwise offer to perform, and perform any activity or work as a

1 contractor requiring licensure under this chapter including within its scope any work
2 requiring licensure under Chapter 14 of this title; provided, however, that any work
3 contractually undertaken by a general contractor in the nature of electrical contracting,
4 plumbing, conditioned air contracting, low voltage contracting, or utility contracting
5 which falls within the licensing requirements of Chapter 14 of this title may not be
6 performed by the general contractor but shall only be performed by a person who is duly
7 licensed to perform such work under Chapter 14 of this title. The construction of all
8 private, commercial, institutional, industrial, public, and other buildings and structures
9 under contract with or engagement directly by an owner shall be undertaken by a general
10 contractor, except as otherwise expressly set forth in or excluded from operation of this
11 chapter.

12 (6) An 'owner' of real property means a person or entity that has a majority ownership
13 interest in the real property to be improved and for whom an improvement is made or
14 who contracts with or engages, directly or through an agent, the contractor to perform the
15 construction work or services.

16 (7) 'Qualifying agent' means a person who possesses the requisite skill, knowledge, and
17 experience and has the responsibility to supervise, direct, manage, and control all of the
18 contracting activities of a contractor doing business in the form of a business
19 organization, with which he or she is affiliated by employment or ownership; who has the
20 responsibility to supervise, direct, manage, and control construction activities on a job for
21 which he or she has obtained the building permit; and whose technical and personal
22 qualifications have been determined by investigation and examination as provided in this
23 chapter, as attested by the division.

24 (8) 'Real property' means the real estate, or an interest therein, that is improved,
25 including leaseholds, tenements, and easements, and improvements constructed or placed
26 thereon.

27 (9) 'Residential contractor' means any contractor who may contract for, undertake to
28 perform, submit a bid or a proposal or otherwise offer to perform, and perform any
29 activity or work as a contractor requiring licensure under this chapter for a fixed price,
30 commission, fee, wage, or other compensation or who undertakes any activity or work
31 on his or her own behalf or for any person or business organization that is not licensed
32 as a licensed residential contractor pursuant to this chapter where such activity or work
33 falls into the category of residential-basic contractor or residential-light commercial
34 contractor as defined in this Code section and where the total value of the work or activity
35 or of the compensation to be received by the contractor for such activity or work,
36 whichever is the higher, exceeds \$2,500.00. The term 'residential contractor' shall
37 include both a residential-basic contractor and a residential-light commercial contractor,

1 except where otherwise expressly stated. The work or activity performed by a residential
 2 contractor may include within its scope any work requiring licensure under Chapter 14
 3 of this title; provided, however, that any work contractually undertaken by a residential
 4 contractor in the nature of electrical contracting, plumbing, conditioned air contracting,
 5 low voltage contracting, or utility contracting which falls within the licensing
 6 requirements of Chapter 14 of this title may not be performed by the residential
 7 contractor but shall only be performed by a person who is duly licensed to perform such
 8 work under Chapter 14 of this title.

9 (10) 'Residential-basic contractor' means and encompasses a person who performs
 10 contractor work or activity relative to detached one-family and two-family residences and
 11 one-family townhouses not over three stories in height and their accessory buildings and
 12 structures;

13 (11) 'Residential-light commercial contractor' means and encompasses a person who
 14 performs any contractor work or activity performed by a residential-basic contractor and,
 15 additionally, shall include such contractor work or activity related to multifamily and
 16 multiuse light commercial buildings and structures, and their related accessory buildings
 17 and structures, which are less than four stories in height; less than 25,000 square feet in
 18 aggregate interior floor space, except as otherwise provided in this chapter; and are
 19 constructed of wood or light gauge metal frame, brick veneer, prefabricated, or
 20 manufactured type of construction; or are preengineered steel buildings not exceeding
 21 50,000 square feet of interior floor space; provided that such buildings or structures are
 22 not of the type of building or structure that would constitute a special hazard to property
 23 or to life and safety of persons as defined in subparagraphs (A), (C), (D), (E), (F), (G),
 24 (G.1), (H), (I), and (J) and subparagraph (B), as it applies to a building of four or more
 25 stories, of paragraph (1) of subsection (b) of Code Section 25-2-13.

26 (12) 'Specialty contractor' means a contractor whose scope of work and responsibility is
 27 of limited scope dealing with only a specific trade and directly related and ancillary work
 28 and whose performance is limited to such specialty construction work requiring special
 29 skill and requiring specialized building trades or crafts, including, but not limited to, such
 30 activities, work, or services requiring licensure under Chapter 14 of this title.

31 43-41-3.

32 (a) There is created the State Licensing Board for Residential and General Contractors
 33 consisting of 14 members appointed by the Governor for five-year terms. The board shall
 34 be assigned to the Secretary of State's office for administrative purposes and shall be under
 35 the jurisdiction of the division director and shall operate in accordance with and pursuant
 36 to the provisions of Chapter 1 of this title, as applicable. The board shall be comprised of

1 two divisions: the residential contractor division, having jurisdiction of and authority over
2 the two subcategories of residential contracting, residential-basic contractors and
3 residential-light commercial contractors, and the general contractor division. Seven
4 members shall be appointed and serve as members of the residential contractor division of
5 the board and seven members shall be appointed and serve as members of the general
6 contractor division of the board. 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 and such replacement shall meet the requirements and criteria of
10 selection of the person previously holding the vacant position. To be eligible to serve on
11 the respective divisions of the board, each contractor member shall be and remain actively
12 involved in the construction contracting business and shall have been so engaged for a
13 period of not less than five consecutive years before the date of appointment in the
14 particular contracting business, as a residential contractor or general contractor,
15 corresponding to the division for which such person is appointed. Any contractor members
16 whose term continues after or who are appointed to terms commencing two years from the
17 date that this chapter becomes effective must also have been licensed and certified by the
18 respective division of the board to operate as a contractor in the category to which the
19 member is appointed. The position of any appointive member of the board who, during his
20 or her term of appointment, shall cease to meet the qualifications for original appointment
21 shall be immediately vacated. No member of the board shall be appointed to serve more
22 than two full terms.

23 (b) The residential contractor division shall consist of seven members and, except as
24 otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the
25 practice of the two subcategories of residential contracting, residential-basic contractors
26 and residential-light commercial contractors. Five members shall be residential contractors
27 eligible for licensure under this chapter. Effective July 1 of the second year after this
28 chapter becomes effective, all residential contractor members shall be required to be
29 licensed under this chapter. At least two of the residential contractor members shall be
30 qualified to perform residential-light commercial type projects; three shall be qualified and
31 shall predominantly perform residential-basic type projects; one shall be a residential
32 contractor whose business predominately involves remodeling projects; one shall be a
33 residential contractor who constructs at least an average of 20 residences per year; and all
34 must be geographically diverse. One member shall be a public building official and one
35 member shall be a public member. The public member shall have no ties with the
36 residential construction industry and shall represent the interests of the public at large. The
37 initial member terms on the residential contractor division shall be staggered so that all

1 terms do not expire simultaneously. Three members shall serve initial terms of five years,
2 three members shall serve initial terms of four years, and one member shall serve an initial
3 term of three years. The residential contractor division shall meet at least six times each
4 year for the purpose of transacting such business as may properly come before it.

5 (c) The general contractor division shall consist of seven members and, except as
6 otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the
7 practice of general contracting. Five members shall be general contractors eligible for
8 licensure under this chapter. Effective July 1 of the second year after this chapter becomes
9 effective, all general contractor members shall be required to be licensed under this chapter.
10 At least two of the general contractor members shall be small volume builders with an
11 annual contracting volume of less than \$5 million and all of whom must be geographically
12 diverse. One member shall be a currently licensed or registered architect or engineer and
13 one member shall be a public building official. The initial member terms on the general
14 contractor division shall be staggered so that all terms do not expire simultaneously. Three
15 members, including at least two contractor members, shall serve initial terms of five years;
16 three members, including at least two contractor members, shall serve initial terms of four
17 years; and one member shall serve an initial term of three years. The general contractor
18 division shall meet at least six times each year for the purpose of transacting such business
19 as may properly come before it.

20 43-41-4.

21 (a) The initial members of the board shall be appointed by the Governor no later than July
22 30 of the year in which this chapter becomes effective. The board shall meet within 30
23 days after its appointment at a time and place to be designated by the Governor and
24 organize by electing a chairperson and a vice chairperson, each to serve for a one year
25 term.

26 (b) The office of chairperson of the board shall be rotated between the two divisions
27 enumerated in this chapter, with the office of vice chairperson to be held by a member of
28 the division other than that in which the chairperson serves, unless the board, through its
29 rules and regulations, provides otherwise. Any vacancy in the office of chairperson shall
30 be filled by the members for the unexpired term. The person selected to fill the vacancy
31 shall be a member of the same division as the chairperson whose departure has created the
32 vacancy.

33 (c) The board shall meet at the call of the chairperson or upon the recommendation of a
34 majority of its members. Eight members of the board, including at least three members
35 from each of its divisions, shall constitute a quorum for transaction of business by the
36 board.

1 (d) Each division within the board shall also elect from its membership a chairperson and
2 a vice chairperson who shall each serve for a term of two years. Any vacancy in the office
3 of either the chairperson or vice chairperson shall be filled by one of the members of the
4 respective division for the unexpired term.

5 (e) Any member elected chairperson of a division may not serve more than two
6 consecutive full terms of office.

7 (f) Each division shall carry out its powers and duties as provided for in this chapter with
8 the assistance of the division director and staff of the professional licensing boards division
9 of the Secretary of State's office and the officers and staff of the board. Each division of
10 the board shall operate and transact its business independently of the other division and of
11 the board at large, except as required by this chapter and to the extent of common interests
12 and functions, including staffing and administration. Each division of the board shall have
13 delegated from the board the power and authority to take all appropriate actions in the
14 organization and administration of each respective division and the effectuation and
15 implementation of the licensing and enforcement processes required under this chapter,
16 subject to ultimate oversight and review by the board.

17 (g) The divisions of the board shall meet at the call of the chairperson of the division.

18 (h) The board shall not take action on any matter specifically delegated to and under the
19 authority and control of the one of its divisions unless at least four of its members from the
20 affected division are present and participating in such action or decision.

21 (i) The division director, or his or her designee, shall keep a record of the proceedings of
22 the board and its respective divisions.

23 43-41-5.

24 (a) The board shall meet at least twice each year for the purpose of transacting such
25 business as may properly come before it and of overseeing the operation of its divisions.

26 (b) The board and its divisions shall have the power to:

27 (1) Request from the various departments, agencies, and authorities of the state and its
28 political subdivisions and their agencies and authorities such available information as
29 they may require in their work; and all such departments, agencies, and authorities shall
30 furnish such requested available information to the board and its divisions within a
31 reasonable time;

32 (2) Provide by regulation for reciprocity with other states or territories of the United
33 States in the licensing of residential and general contractors, provided that such other
34 states have requirements substantially equal to the requirements in force in this state for
35 registration, licensure, or certification and that any such contractor holding a current and
36 valid license, certificate, or registration from another state or territory seeking licensure

1 by way of reciprocity shall demonstrate that such applicant meets, in the discretion of the
2 respective division, the qualifications, requirements, and criteria set forth in Code Section
3 43-41-6, other than the requirement to take and pass an examination as set forth in
4 subsection (d) of Code Section 43-41-6, and that such applicant is otherwise in
5 compliance with all requirements of the State of Georgia for transaction of such business
6 within this state; provided, further, that a similar privilege is offered to residents of this
7 state by the other state or territory;

8 (3) Establish and adjust fees as necessary within the limits set forth in Chapter 1 of this
9 title;

10 (4) Adopt official seals for their use and change them at pleasure;

11 (5) Establish the policies and procedures for regulating the businesses of residential
12 contracting and general contracting;

13 (6) Determine qualifications for licensure or certification, including such experience
14 requirements as the board deems necessary; and

15 (7) Promulgate and adopt rules and regulations necessary to carry out this chapter.

16 (c) Regarding the powers and authorities conferred by this Code section relative to the
17 residential-light commercial contractor subcategory of the residential contractor
18 classification under this chapter, due to the characteristics of such subcategory, such
19 powers and authorities shall be delegated to and conferred upon, in the first instance, a
20 combined and overlapping subdivision comprising four members of both of the divisions,
21 two of whom shall be the residential-light commercial qualified members of the residential
22 contractor division and two of whom shall be the small volume qualified members of the
23 general contractor division, with neither division having sole oversight and control of such
24 powers and authorities. The chairperson of such combined subdivision shall be rotated
25 annually between the chairperson of the residential contractor division and the chairperson
26 of the general contractor division, with the residential contractor chairperson initially
27 serving as chairperson. The combined subdivision shall meet at the call of such
28 chairperson. However, regarding the actual issuance of licenses under this chapter for
29 residential-light commercial contracting and any powers and authorities relative to
30 administration, oversight, control, or disciplinary action of persons issued such licenses,
31 pursuant to Code Sections 43-41-10, 43-41-11, 43-41-13, 43-41-15, and 43-41-16, the
32 residential contractor division shall have full power and authority. Any determinations
33 made or actions taken by this subdivision shall be subject to the ultimate review, oversight,
34 control, power, and authority of the board.

35 (d)(1) The division director is authorized to make, or cause to be made through
36 employees or contract agents of the board, such investigations as he or she or the board
37 may deem necessary or proper for the enforcement of the provisions of this chapter. Any

1 person properly conducting an investigation on behalf of the board shall have access to
2 and may examine any writing, document, or other material relating to the fitness of any
3 licensee or applicant. The division director or his or her appointed representative may
4 issue subpoenas to compel such access upon a determination that reasonable grounds
5 exist for the belief that a violation of this chapter or any other law relating to the practice
6 of residential or general contracting may have taken place.

7 (2) The results of all investigations initiated by the board shall be reported solely to the
8 board, and the records of such investigations shall be kept for the board by the division
9 director, with the board retaining the right to have access at any time to such records. No
10 part of any such records shall be released, except to the board, for any purpose other than
11 a hearing before the board, nor shall such records be subject to subpoena; provided,
12 however, that the board shall be authorized to release such records to another
13 enforcement agency or lawful licensing authority.

14 (3) The board shall have the authority to exclude all persons during its deliberations on
15 disciplinary proceedings and to discuss any disciplinary matter in private with a licensee
16 or applicant and the legal counsel of that licensee or applicant.

17 (e) A person, firm, corporation, association, authority, or other entity shall be immune
18 from civil and criminal liability for reporting or investigating the acts or omissions of a
19 licensee or applicant which violate the provisions of this chapter or any other provision of
20 law relating to a licensee's or applicant's fitness to practice as a licensed residential or
21 general contractor or for initiating or conducting proceedings against such licensee or
22 applicant, if such report is made or action is taken in good faith, without fraud or malice.

23 (f) The denial of a license on grounds other than those enumerated in this chapter, the
24 issuance of a private reprimand, the denial of a license by reciprocity, the denial of a
25 request for reinstatement of a revoked license, or the refusal to issue a previously denied
26 license shall not be considered to be a contested case within the meaning of Chapter 13 of
27 Title 50, the 'Georgia Administrative Procedure Act.' Notice and hearing within the
28 meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall
29 be allowed to appear before the board if he or she so requests.

30 (g) If any licensee or applicant fails to appear at any hearing after reasonable notice, the
31 board may proceed to hear the evidence against such licensee or applicant and take action
32 as if such licensee or applicant had been present. A notice of hearing, initial or
33 recommended decision, or final decision of the board in a disciplinary proceeding shall be
34 served upon the licensee or applicant by certified mail or statutory overnight delivery,
35 return receipt requested, to the last known address of record with the board. If such
36 material is returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the
37 licensee or applicant cannot, after diligent effort, be located, the division director shall be

1 deemed to be the agent for service for such licensee or applicant for purposes of this Code
2 section, and service upon the division director shall be deemed to be service upon the
3 licensee or applicant.

4 (h) The voluntary surrender of a license shall have the same effect as a revocation of the
5 license, subject to reinstatement in the discretion of the board.

6 (i) This Code section shall apply equally to all licensees or applicants whether individuals,
7 partners, or members of any other incorporated or unincorporated associations,
8 corporations, business organizations, or other associations of any kind whatsoever.

9 (j) All subpoenas issued pursuant to the authority granted in this chapter shall be subject
10 to the general rules of law with respect to distance, tender of fees and expenses, and
11 protective orders; and any motion made with respect thereto shall be made to and passed
12 on by a judge of the superior court of the county of residence of the person to whom the
13 subpoena is directed.

14 43-41-6.

15 (a) Anyone seeking to be licensed as a residential contractor or as a general contractor in
16 this state shall file an application on a form provided by the residential contractor or
17 general contractor division, respectively, accompanied by an application fee as provided
18 by the board. Such an application may be submitted either by:

19 (1) An individual person seeking issuance of a license in his or her own name for
20 purposes of engaging in the profession of residential or general contracting in his or her
21 own name or doing business as an individual in a trade name as a sole proprietorship; or

22 (2) An individual person affiliated by ownership or employment with and acting as a
23 qualifying agent for a business organization seeking to engage in the profession of
24 residential or general contracting in the name of the business organization in accordance
25 with and pursuant to Code Section 43-41-9.

26 Additionally, all applicants must submit to and successfully pass an examination prepared
27 by the appropriate division, except where an applicant is otherwise qualified for licensure
28 and has satisfied the appropriate division requirements and regulations for licensure
29 pursuant to Code Section 43-41-8 exempting such applicant from the examination
30 requirement or where the applicant is an individual acting as a qualifying agent for a
31 business organization and has previously obtained and maintained continuously a license
32 issued by the appropriate division.

33 (b) A person shall be eligible for licensure as a residential-basic contractor by the
34 residential contractor division if the person:

35 (1) Is at least 21 years of age;

1 (2) Is of a good character and is otherwise qualified as to competency, ability, and
2 integrity;

3 (3) Has at least two years of proven experience working as or in the employment of a
4 residential contractor, predominantly in the residential-basic category, or other proven
5 experience deemed substantially similar by the division; and

6 (4) Has had significant responsibility for the successful performance and completion of
7 at least two projects falling within the residential-basic category in the two years
8 immediately preceding application.

9 (c) A person shall be eligible for licensure as a residential-light commercial contractor by
10 the residential-light commercial subdivision if the person:

11 (1) Is at least 21 years of age;

12 (2) Is of a good character and is otherwise qualified as to competency, ability, and
13 integrity;

14 (3) Meets eligibility requirements according to one of the following criteria:

15 (A) Has received a baccalaureate degree from an accredited four-year college or
16 university in the field of engineering, architecture, construction management, building
17 construction, or other field acceptable to the division and has at least one year of proven
18 experience working as or in the employment of a residential contractor, general
19 contractor, or other proven experience deemed substantially similar by the division;

20 (B) Has a combination acceptable to the division of academic credits from any
21 accredited college-level courses and proven practical experience working as or in the
22 employment of a residential contractor, general contractor, or other proven experience
23 deemed substantially similar by the division equaling at least four years in the
24 aggregate. For purposes of this subparagraph, all university, college, junior college, or
25 community college-level courses shall be considered accredited college-level courses;
26 or

27 (C) Has a total of at least four years of proven active experience working in a
28 construction industry related field, at least two of which shall have been as or in the
29 employment of a residential contractor, or other proven experience deemed acceptable
30 by the division; and

31 (4) Has had significant responsibility for the successful performance and completion of
32 at least two projects falling within the residence-light commercial category in the four
33 years immediately preceding application.

34 (d) A person shall be eligible for licensure as a general contractor by the general contractor
35 division if the person:

36 (1) Is at least 21 years of age;

1 (2) Is of a good character and is otherwise qualified as to competency, ability, integrity,
2 and financial responsibility; and

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

4 (A) Has received a baccalaureate degree from an accredited four-year college or
5 university in the field of engineering, architecture, construction management, building
6 construction, or other field acceptable to the division and has at least one year of proven
7 experience working as or in the employment of a general contractor or other proven
8 experience deemed substantially similar by the division;

9 (B) Has a combination acceptable to the division of academic credits from any
10 accredited college-level courses and proven practical experience working as or in the
11 employment of a general contractor or other proven experience deemed substantially
12 similar by the division equaling at least four years in the aggregate. For purposes of
13 this subparagraph, all university, college, junior college, or community college-level
14 courses shall be considered accredited college-level courses; or

15 (C) Has a total of at least four years of proven active experience working in a
16 construction industry related field, at least two of which shall have been as or in the
17 employment of a general contractor, or other proven experience deemed acceptable by
18 the division and at least one of which shall have been in or relating to administration,
19 marketing, accounting, estimating, drafting, engineering, supervision, or project
20 management, or functions deemed substantially similar by the division.

21 (e) Before being entitled to take an examination or otherwise qualify for issuance of a
22 license, an applicant must show to the satisfaction of the residential contractor division or
23 general contractor division from the application and proofs furnished that the applicant is
24 possessed of a good character and is otherwise qualified as to competency, ability,
25 integrity, and financial responsibility. The application shall include a list of all persons,
26 entities, and business organizations that the applicant will be affiliated with as a licensed
27 residential contractor or general contractor, whether by way of employment, ownership,
28 serving as an owner or director, partnership, or membership or by serving as a qualifying
29 agent under this chapter. Applicants for a general contractor license shall provide proof
30 of a minimum net worth in an amount which is specified by the general contractor division.
31 Additionally, all applicants shall provide proof of general liability insurance and of
32 workers' compensation insurance as required by the laws of this state in their name.
33 However, if and to the extent the applicant is submitted as a person seeking to act as a
34 qualifying agent of a particular business organization, such proofs and information shall
35 relate and pertain to such business organization rather than the individual applicant, subject
36 to the limitations set forth in subsection (d) of Code Section 43-41-9. All applicants shall
37 also provide their social security numbers, if applying as an individual, or the federal

1 taxpayer identification numbers of any business organization for which the applicant is
2 seeking licensure as a qualifying agent. Applicants for a general contractor's license shall
3 also provide suitable verification of tax payments in a form and manner and for the
4 duration prescribed by the general contractor division; provided, however, that where the
5 application is seeking license as a qualifying agent of a business organization, such tax
6 verification and information shall relate and pertain to that business organization. The
7 decision of the appropriate division as to the qualifications of applicants shall, in the
8 absence of fraud, be conclusive. A certificate by the insurer or other appropriate evidence
9 of such coverages shall be maintained with the appropriate division and shall be a condition
10 of renewal. A licensee, on his or her own behalf or where acting as a qualifying agent on
11 behalf of the business organization so qualified, must notify the appropriate division in
12 writing within 30 days of any changes in the information required to be on file with such
13 division, including, but not limited to, the licensee's and, if the licensee is acting as a
14 qualifying agent for any business organization, such business organization's current
15 mailing address, insurance coverages, and affiliated entities.

16 (f)(1) The residential contractor division and the general contractor division shall each
17 conduct an examination of all qualified applicants, except those exempted from the
18 examination requirement pursuant to Code Section 43-41-8.

19 (2) The residential contractor division shall conduct separate examinations for applicants
20 for residential-basic and residential-light commercial licenses for the purpose of
21 determining a particular applicant's ability to make a practical application of his or her
22 knowledge of the profession of residential contracting in the particular subcategory for
23 which a license is sought; the applicant's qualifications in reading plans and
24 specifications; his or her knowledge of building codes, estimating costs, construction,
25 ethics, contracting, and other similar matters pertaining to such residential contracting
26 business; his or her knowledge as to the responsibilities of a residential contractor to the
27 public and to owners, subcontractors, and suppliers; and his or her knowledge of the
28 requirements of the laws of this state relating to residential-basic and residential
29 light-commercial contractors, construction, workers' compensation, insurance, and liens.

30 (3) The general contractor division shall conduct an examination to ascertain the
31 particular applicant's ability to make a practical application of his or her knowledge of
32 the profession of commercial general contracting; the applicant's qualifications in reading
33 plans and specifications; his or her knowledge of building codes, estimating costs,
34 construction, ethics, contracting, and other similar matters pertaining to the general
35 contracting business; his or her knowledge as to the responsibilities of a general
36 contractor to the public and to owners, subcontractors, and suppliers; and his or her

1 knowledge of the requirements of the laws of this state relating to general contractors,
2 construction, workers' compensation, insurance, surety bonding, and liens.

3 (4) If the results of the applicant's examination are satisfactory to the appropriate
4 division, or he or she is exempted from the examination requirement under Code Section
5 43-41-8, and if he or she and any affiliated business organization has met the other
6 qualifications and requirements set forth in this Code section, then the appropriate
7 division shall issue to the applicant a license to engage in business as a residential or
8 general contractor in this state, as provided in such license, in his or her own name as a
9 sole proprietor or as a qualifying agent for the affiliated business organization and in the
10 name of such business organization, pursuant to and in accordance with the requirements
11 set forth in Code Section 43-41-9. A residential contracting license shall indicate for
12 which of the two subcategories, residential-basic or residential-light commercial, the
13 licensee is qualified.

14 (g) Any otherwise qualified applicant failing this examination may be reexamined at any
15 regularly scheduled examination within one year of the date of original application upon
16 payment of a reexamination fee, in an amount to be set by the board, without need to
17 resubmit an application, unless any information set forth in the previously submitted
18 application is no longer accurate or complete. Anyone requesting to take the examination
19 a third or subsequent time shall wait at least one calendar year after the taking of the last
20 examination and shall submit an application with the appropriate examination fees.

21 (h) A residential contractor license, indicating whether relating to the residential-basic or
22 residential-light commercial category, or general contractor license shall be issued to an
23 applicant who successfully completes the respective requirements therefor upon the
24 payment of fees prescribed by the board.

25 (i) Such licenses shall be renewable biennially. Licenses may be renewed subsequent to
26 their expiration within six months of the date of expiration by mailing written application
27 for renewal and paying a late renewal fee as determined by the board. After six months has
28 elapsed from the date of expiration, such license may be reinstated in accordance with the
29 rules and regulations of the board.

30 (j) The division director shall give advance notice by mail to each person holding a license
31 under this chapter of the date of the expiration of the certificate of registration and the
32 amount of the fee required for renewal at least one month prior to the expiration date, but
33 the failure to receive such notice shall not avoid the expiration of any license not renewed
34 in accordance with this Code section.

35 (k) As a condition of renewal, the appropriate division may require licensees to complete
36 division approved continuing education of not more than three hours annually for a

1 residential-basic license, six hours annually for a residential-light commercial license, and
2 eight hours annually for a general contractor license.

3 43-41-7.

4 A licensed residential contractor and any affiliated entities shall offer a written warranty
5 in connection with each contract to construct, or superintend or manage the construction
6 of, any single family residence where the total value of the work or activity or the
7 compensation to be received by the contractor for such activity or work exceeds \$2,500.00.
8 The residential contractor division shall establish the minimum requirements of such
9 warranty. The parties to the warranty may agree to submit any or all disputes arising under
10 the warranty to arbitration. Such agreement to arbitrate shall be enforceable as provided
11 in Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code.'

12 43-41-8.

13 (a) Notwithstanding any other provision of this chapter to the contrary, the following
14 persons desiring to qualify for a residential contractor license or a general contractor
15 license under the provisions of this chapter shall be eligible for issuance of a such a license
16 by the appropriate division without examination, provided that such person submits a
17 proper application and proofs, pays or has paid the required fees, otherwise meets the
18 requirements of Code Section 43-41-6 for licensure, and is not otherwise in violation of this
19 chapter:

20 (1) Any person who holds a current and valid license to engage in the comparable
21 category of residential or general contracting issued to him or her by any governing
22 authority of any political subdivision of this state which requires passing an examination
23 which is substantially similar to the state examination for residential or general
24 contractors, provided that such person is a Georgia resident and citizen, if an individual
25 applying in his or her own behalf, or is seeking licensure as a qualifying agent for a
26 business organization incorporated in Georgia or otherwise authorized and certified to
27 transact business in Georgia with a regular office and place of business in Georgia
28 currently and having had such office and place of business continuously for the five years
29 immediately preceding such application; provided, further, that the examination results
30 are made available to the appropriate division. Such application and request for
31 exemption must be submitted within the time limits set forth in subsection (a) of Code
32 Section 43-41-17;

33 (2) Any person who has successfully and efficiently engaged in the comparable category
34 of residential or general contracting in this state as provided in this Code section;
35 provided, however, that such person shall be either a resident and citizen of the state of

1 Georgia or, if applying as a qualifying agent for a business organization, such business
2 organization shall be either incorporated in Georgia or is a business organization
3 otherwise authorized and certified to transact business in Georgia with a regular office
4 and place of business in Georgia currently and having had such office and place of
5 business continuously for the five years immediately preceding such application;
6 provided, further, that such application and request for exemption is submitted within the
7 time limits set forth in subsection (a) of Code Section 43-41-17. To prove that he or she
8 has successfully engaged in residential-basic or residential-light commercial projects, the
9 person shall be required to give evidence of three successful projects located in Georgia
10 which were successfully completed over the period of five years immediately prior to the
11 time of application; evidence of ten successfully completed residential-basic or
12 residential-light commercial projects located in Georgia over the period of ten years
13 immediately prior to the time of application; or evidence that he or she has participated
14 in or been engaged in residential-basic or residential-light commercial construction in a
15 supervisory or management capacity for seven of the ten years immediately prior to the
16 time of application. To prove that he or she has successfully engaged in commercial
17 general contracting, the person submitting the application shall be required to give
18 evidence of five successful general contracting projects located in Georgia which were
19 successfully completed over the period of five years immediately prior to the time of
20 application or evidence of ten successful general contracting projects located in Georgia
21 which were successfully completed over the period of ten years immediately prior to the
22 time of application, such projects having been performed either by such person acting as
23 an individual or by a business organization in which such individual person was affiliated
24 by employment or ownership and over which such person had general oversight and
25 management responsibilities; and

26 (3) Any person who holds a current and valid license to practice a comparable category
27 of residential or general contracting issued by another state or territory of the United
28 States, where either such state or territory has entered into a reciprocal agreement with
29 the board and divisions for the recognition of contractor licenses issued in that state or
30 territory, or such application is pursuant to and in accordance with the regulations and
31 requirements for reciprocity promulgated by the divisions in accordance with
32 subsection (b) of Code Section 43-41-5. Additionally, such application shall meet the
33 following requirements:

34 (A) The criteria for issuance of such license or certification by such other state or
35 territory, including the requirement to successfully complete an examination, were
36 substantially equivalent to Georgia's current license criteria;

1 (B) The application requirements and application form submitted to the other state or
2 territory upon which such license was issued and the examination form and substance
3 are available for review by the appropriate division and the examination results are
4 made available to the division;

5 (C) The applicant shall demonstrate that he or she meets the qualifications,
6 requirements, and criteria set forth in subsections (a), (b), (c), and (d) of Code Section
7 43-41-6; and

8 (D) The applicant is otherwise in compliance with all requirements of this state for
9 transaction of such business within this state; provided, however, that such application
10 and request for exemption shall be submitted within the time limits set forth in
11 subsection (a) of Code Section 43-41-17.

12 (b) Any applicant for issuance of a residential contractor or general contractor license
13 under this title who shall seek exemption from the examination requirement under
14 subsection (f) of Code Section 43-41-6, on any basis set forth above, shall have the burden
15 of establishing to the satisfaction and within the discretion of the appropriate division that
16 the requirements for such exemption have been satisfied. The decision of such division as
17 to the satisfaction of the requirements for such exemption from taking the examination
18 shall, in the absence of fraud, be conclusive.

19 43-41-9.

20 (a) If an individual applicant proposes to engage in residential or general contracting in the
21 individual's own name or a trade name where the individual is doing business as a sole
22 proprietorship, the license shall be issued only to that individual. Where an applicant under
23 this chapter is seeking issuance of a residential or general contractor license on behalf and
24 for the benefit of a business organization seeking to engage in residential or general
25 contracting as a business organization, or in any name other than the applicant's legal name
26 or trade name where the applicant is doing business as a sole proprietorship, the application
27 for a license under this chapter must be submitted by and through an individual qualifying
28 agent for such business organization or entity and expressly on behalf of such business
29 organization or entity. In such case, the license shall be issued to the individual qualifying
30 agent and to the affiliated business organization or entity on whose behalf the application
31 was made. It shall be unlawful for any person, firm, corporation, or association to operate
32 a business organization or entity engaged in the business of residential or general
33 contracting without first obtaining a license from the appropriate division. The appropriate
34 division shall not issue a license to any business organization or entity to engage in
35 residential or general contracting unless such business organization or entity employs at
36 least one currently licensed residential or general contractor who is actually engaged in the

1 practice of residential or general contracting for such business organization or entity on a
2 full-time basis and provides adequate supervision and is responsible for the projects of such
3 business organization or entity. A business organization may allow more than one person
4 to act as a qualifying agent for such organization, subject to each such individual qualifying
5 agent having successfully satisfied the requirements for issuance of a license under this
6 chapter and having obtained issuance of such a license by the appropriate division. Each
7 such business organization shall have at least one qualifying agent in order to be considered
8 authorized to engage in such contracting business.

9 (b) The application for a license by a qualifying agent must include an affidavit on a form
10 provided by the board attesting that the individual applicant has final approval authority
11 for all construction work performed by the business organization or entity and that the
12 individual applicant has final approval authority on all business matters, including contracts
13 and contract performance and financial affairs of the business organization or entity.

14 (c) A joint venture is considered a separate and distinct organization for licensing purposes
15 under this chapter and must be qualified and licensed in accordance with the appropriate
16 division's rules and regulations either:

17 (1) In its own name as a separate business organization; or

18 (2) By each of the members of the joint venture doing business as a residential contractor
19 or general contractor holding, as an individual or as a business organization acting
20 through its qualifying agent, a valid and current residential or general contractor's license
21 issued by the appropriate division.

22 Each such licensed individual or qualifying agent shall be considered a qualifying agent
23 of such joint venture.

24 (d) If, during the period encompassed by a license issued to a qualifying agent acting for
25 and on behalf of an affiliated business organization, there is a change in any information
26 that is required to be stated on the application, the business organization shall, within 45
27 days after such change occurs, mail the correct information to the appropriate division.

28 (e)(1) At least one qualifying agent shall be licensed under this chapter in order for the
29 business organization to obtain a license as a residential or general contractor. If any
30 qualifying agent ceases to be affiliated with such business organization, for any reason,
31 he or she shall so inform the division having jurisdiction. In addition, if such qualifying
32 agent is the only qualifying agent licensed hereunder affiliated with the business
33 organization, the business organization shall promptly notify the appropriate division of
34 the termination of the relationship with that qualifying agent and shall have 120 days
35 from the termination of the qualifying agent's affiliation with the business organization
36 to employ another qualifying agent and submit an application for licensure under the new
37 qualifying agent. The submission of such application shall serve to maintain the licensed

1 status of the business organization pending and subject to approval of such application
2 by the appropriate division; provided that, should such application be denied by that
3 division, then, after passage of the 120 day period, the business organization shall cease
4 to be considered licensed as a residential or a general contractor unless and until a new
5 application is submitted and approved by the appropriate division. In such circumstance,
6 the affected business organization may not thereafter engage in residential or general
7 contracting until a new qualifying agent is employed, unless the appropriate division has
8 granted a temporary nonrenewable license to the financially responsible officer, the
9 president or chief executive officer, a partner, or, in the case of a limited partnership, the
10 general partner, who thereafter shall assume all responsibilities of a qualifying agent for
11 the business organization or entity. This temporary license shall only allow the entity to
12 proceed with incomplete contracts already in progress. For the purposes of this
13 paragraph, an incomplete contract is one which has been awarded to, or entered into by,
14 the business organization prior to the cessation of affiliation of the qualifying agent with
15 the business organization or one on which the business organization was the low bidder
16 and the contract is subsequently awarded, regardless of whether any actual work has
17 commenced under the contract prior to the qualifying agent ceasing to be affiliated with
18 the business organization.

19 (2) The qualifying agent shall inform the division having jurisdiction in writing when he
20 or she proposes to engage in contracting in his or her own name or in affiliation with
21 another business organization, and he or she or such new business organization shall
22 supply the same information to the division as required of applicants under this chapter.
23 Such person shall be deemed to be a licensed residential or general contractor for the
24 original term of his or her license, provided that he or she qualified for such license based
25 on his or her own personal qualifications as to financial responsibility and insurance.
26 Otherwise, such individual shall be required to submit a new application demonstrating
27 satisfaction of such financial and insurance requirements himself or herself or by the
28 business organization he or she desires to qualify, but such person shall be entitled to
29 continue engaging in the business of residential or general contracting in accordance with
30 and under his or her previously issued license unless and until the appropriate division
31 determines that the person seeking issuance of the license no longer meets these
32 requirements.

33 (3) Upon a favorable determination by the division having jurisdiction, after
34 investigation of the financial responsibility, if applicable, and insurance of the qualifying
35 agent and the new business organization, the division shall issue, without an examination,
36 a new license in the name of the qualifying agent and in the name of the new affiliated
37 business organization.

1 (f) Disciplinary action and other sanctions provided in this chapter may be administered
2 against a business organization operating under a license issued through its licensed
3 qualifying agent or agents in the same manner and on the same grounds as disciplinary
4 actions or sanctions against an individual or license holder acting as its qualifying agent
5 under this chapter. The divisions or the board may deny the license to a qualifying agent
6 for any business organization if the qualifying agent or business organization has been
7 involved in past disciplinary actions or on any grounds for which individual licenses can
8 be denied.

9 (g) Each qualifying agent shall pay the appropriate division an amount equal to the original
10 fee for a license applied for on behalf of a new business organization. If the qualifying
11 agent for a business organization desires to qualify additional business organizations, the
12 division shall require him or her to present evidence of the financial responsibility, if
13 applicable, and insurance of each such organization.

14 (h) All qualifying agents for a business organization are jointly and equally responsible for
15 supervision of all operations of the business organization, for all field work at all sites, and
16 for financial matters, both for the organization in general and for each specific job for
17 which his or her license was used to obtain the building permit.

18 (i) Any change in the status of a qualifying agent is prospective only. A qualifying agent
19 shall for purposes of application of this chapter and the enforcement and disciplinary
20 mechanisms thereunder be and remain responsible for his or her actions or omissions as
21 well as those of the business organization for which such person had acted as a qualifying
22 agent occurring during his or her period of service as such qualifying agent as and to the
23 extent set forth in this chapter. A qualifying agent is not responsible for his or her
24 predecessor's actions, but is responsible, even after a change in status, for matters for
25 which he or she was responsible while in a particular status. Further, nothing in this
26 chapter shall be interpreted as a basis for imposition of civil liability against an individual
27 qualifying agent by any owner or other third party claimant beyond the liability that would
28 otherwise exist legally or contractually apart from and independent of the individual's
29 status as a qualifying agent.

30 43-14-10.

31 (a) In addition to the powers and authorities conferred upon the board and its divisions
32 pursuant to Chapter 1 of this title, the residential contractor division and the general
33 contractor division shall have the power, respectively, to reprimand any person or licensee,
34 or to suspend, revoke, or refuse to grant, renew, or restore a license to any person or
35 licensee if such person or licensee is found by the appropriate division to have engaged in
36 any fraud or deceit in obtaining a license or otherwise to have engaged in gross negligence,

1 repeated or persistent incompetence, intentional misconduct in the practice of his or her
2 profession, or willful violation of any provisions of this chapter.

3 (b) For purposes of this Code section, a person or business organization operating on an
4 expired, revoked, lapsed, or suspended license shall be considered unlicensed.

5 (c) The separate divisions may issue a stop-work order for all unlicensed work falling
6 within their respective jurisdictions upon finding probable cause to believe that
7 construction work which requires a license under this chapter is being performed by a
8 person without such a current, valid license. Such an order may be enforced by injunctive
9 relief, cease and desist orders, or other related actions within the power and authority of the
10 board and its respective divisions.

11 (d) The division having jurisdiction shall investigate and sanction any license holder found
12 to have engaged in fraud, deceit, gross negligence, repeated or persistent incompetence, or
13 intentional misconduct in the practice of residential or general contracting; and sanctions
14 shall be assessed against any such residential or general contractor licensed under this
15 chapter either individually or as a business organization acting through a qualifying agent.
16 Such charges, unless dismissed without hearing by the division as unfounded, shall be
17 heard and determined by that division in accordance with the provisions of Chapter 13 of
18 Title 50, the 'Georgia Administrative Procedure Act.'

19 (e) The divisions shall each adopt and publish rules and regulations, consistent with the
20 provisions of this chapter, governing the suspension and revocation of licenses.

21 (f) Each division may reissue a license to any person whose license has been revoked or
22 lift a suspension of a license to such person provided that four or more members of the
23 division vote in favor of such reissuance or lifting for reasons that division deems
24 sufficient.

25 43-41-11.

26 The issuance of a license by the residential contractor or the general contractor division
27 shall be evidence that the person named therein, including both the individual licensee and
28 any business organization for whom such licensee is a qualifying agent, is entitled to all the
29 rights and privileges of a licensed residential or general contractor while such license
30 remains unrevoked or unexpired.

31 43-41-12.

32 (a) Any person, whether an individual or a business organization, who:

33 (1) Contracts for or bids upon or engages in the construction of any of the projects or
34 works enumerated in the definitions of residential contractor or general contractor in
35 Code Section 43-41-2 without having first complied with the appropriate provisions of

1 this chapter or who shall attempt to practice residential contracting or general contracting
2 in this state except as provided for in this chapter;

3 (2) Falsely represents, advertises, or holds himself or herself or an affiliated business
4 organization out as a residential contractor or general contractor licensee;

5 (3) Represents or attempts to use or presents as his or her own the license of another
6 person or, in the case of a business organization, a person other than its qualifying agent;

7 (4) Gives false or forged evidence of any kind to the board or its divisions or to any
8 member of the board in maintaining a license;

9 (5) Uses an expired, suspended, or revoked license to continue engaging in residential
10 contracting or general contracting; or

11 (6) Operates a business organization engaged in contracting after 120 days following the
12 termination of its only qualifying agent without designating another primary qualifying
13 agent, except as provided in Code Section 43-41-9,

14 shall be guilty of a misdemeanor and shall, upon conviction, be punished for each such
15 offense by a fine of not less than \$500.00 or imprisonment of three months, or both fine
16 and imprisonment in the discretion of the court.

17 (b) Any architect or engineer who recommends to any project owner the award of a
18 contract to anyone known by such architect or engineer not to be properly licensed under
19 this chapter shall be subject to such penalties as provided in subsection (a) of this Code
20 section and also to any appropriate disciplinary action by the appropriate division.

21 (c) Except as otherwise provided in this Code section, any person who violates any
22 provision of this chapter shall be guilty of a misdemeanor.

23 43-41-13.

24 Whenever it appears to the board or either division of the board that any person, whether
25 an individual or a business organization, or both, is violating any of the provisions of this
26 chapter or of the rules and regulations of the board or either division promulgated under
27 this chapter, the board or division may apply to the superior court of the county in which
28 such individual resides or business is located for a restraining order and injunction to
29 restrain the violation, and the superior court shall have jurisdiction to grant the requested
30 relief, irrespective of whether criminal prosecution has been instituted or administrative
31 sanctions have been imposed by reason of the violation.

32 43-41-14.

33 Any person, whether an individual or a business organization acting through a qualifying
34 agent, intending to perform work as a residential or general contractor, upon making
35 application to the building inspector or such other authority of any incorporated

1 municipality or county in this state charged with the duty of issuing building or other
2 permits for contemplated construction work requiring performance by either a licensed
3 residential contractor or a licensed general contractor shall, before being entitled to the
4 issuance of such permit, furnish to such inspector or authority, personally or through his
5 or her authorized agent specifically designated to act on his or her behalf in a sworn written
6 document submitted contemporaneously or previously submitted and maintained by such
7 inspector or authority, his or her residential contractor or general contractor license number
8 and the identity of any business organization for which such applicant is serving as
9 qualifying agent that is undertaking or contracting as a residential contractor or a general
10 contractor to construct or manage the construction. It shall be unlawful for any such
11 building inspector or other authority to issue or allow the issuance of such building permit
12 unless the applicant has furnished his or her residential contractor or general contractor
13 license number and the identity of any such business organization relative to performance
14 of the work for which a permit has been applied. A building inspector or other authority
15 shall issue such building permit under the terms of this Code section to any person,
16 including an individual licensee acting on his or her own behalf or a licensee acting as a
17 qualifying agent for a business organization and such business organization, upon evidence
18 reasonably establishing that such person is duly licensed as a residential or general
19 contractor under this chapter, either individually or as a business organization acting under
20 a duly licensed qualifying agent. Any building inspector or other such authority that issues
21 a building permit to a person known by such building inspector or authority not to be
22 properly licensed under this chapter shall be guilty of a misdemeanor and, upon conviction,
23 shall be subject to a fine of not more than \$500.00.

24 43-41-15.

25 If an incomplete contract exists at the time of death of a residential or general contractor,
26 where the licensed contractor performing the work under such contract is an individual
27 person and not a business organization acting through a qualifying agent for such
28 organization, the contract may be completed by any person affiliated with the contractor
29 as a co-owner, partner, employee, relative, heir, successor, or assign, even though not
30 licensed under this chapter, subject to the terms of this Code section. Such person shall
31 notify the appropriate division of the board within 30 days after the death of such
32 contractor of such death and of his or her name and address, knowledge of the contract, and
33 ability technically and financially to complete it. Such person may continue with
34 performance of the contract pending approval by the division. If the division approves, he
35 or she may proceed with the contract to completion. If the division does not approve
36 completion by such person, due to a determination that he or she does not have sufficient

1 knowledge, expertise, or financial or other required resources, the division shall give
2 prompt written notice to the person, including the reasons for such rejection, and such
3 person shall promptly upon receipt of such notice cease further performance of the
4 contract. If the owner engages another person under a new contract to complete the
5 remaining work under the original contract, such other party must be a contractor duly
6 licensed under this chapter to perform such work. For purposes of this Code section, an
7 incomplete contract is one which has been awarded to or entered into by the contractor
8 before his or her death or on which he or she was the low bidder and the contract is
9 subsequently awarded to him or her, regardless of whether any actual work has commenced
10 under the contract before the contractor's death. If an incomplete contract exists at the time
11 of death of a sole qualifying agent of a residential contractor or a general contractor, where
12 the contractor is a business organization licensed only under such individual as its
13 qualifying agent, then the contractor shall proceed as provided under paragraph (1) of
14 subsection (e) of Code Section 43-41-9.

15 43-41-16.

16 (a) The board shall have the authority to refuse to grant a license to an applicant or to
17 revoke the license of a person licensed by the board or to discipline a person licensed by
18 the board upon a finding by a majority of the board that the applicant or licensee has
19 committed any of the following acts:

20 (1) Obtaining a license by fraud or misrepresentation or otherwise knowingly giving
21 false or forged evidence to the board or its divisions;

22 (2) Being convicted or found guilty of or entering a plea of guilty or nolo contendere to
23 a criminal act constituting a felony in any jurisdiction which directly relates to the
24 practice of residential or general contracting or the ability to practice contracting;

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

28 (4) Knowingly combining or conspiring with an unlicensed person by allowing his or her
29 license to be used with the intent to evade the provisions of this chapter. When an
30 individual license holder allows his or her license to be used to qualify one or more
31 business organizations, including where such qualifying agent for a person engaged in
32 general contracting does not actually possess and exercise the power and authority
33 required of a qualifying agent under paragraph (7) of Code Section 43-41-2 and Code
34 Section 43-41-9, such act constitutes prima-facie evidence of an intent to evade the
35 provisions of this chapter;

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

3 (6) Abandoning a construction project in which the contractor who is the individual
4 license holder or a business organization for whom the license holder is a qualifying
5 agent is engaged or under contract as a residential or general contractor. A project may
6 be presumed abandoned after 90 days if the contractor has ceased work on or terminated
7 performance on the project without just cause and without proper notification to the
8 owner, including the reason for the termination, cessation, or abandonment;

9 (7) Signing a statement with respect to a project or contract falsely indicating that the
10 work is bonded; knowingly and falsely indicating by written statement issued to the
11 owner that payment has been made for all subcontracted work, labor, and materials and
12 for all materials furnished and installed which statement is reasonably relied upon and
13 actually results in a financial loss to the owner; or falsely indicating that workers'
14 compensation and general liability insurance are provided;

15 (8) Committing fraud or deceit in the practice of contracting, including falsely
16 advertising, representing, or holding himself or herself or an affiliated business
17 organization out as having a valid and current license under this chapter;

18 (9) Committing gross negligence, repeated or persistent negligence, or negligence
19 resulting in a significant danger to life or property;

20 (10) Proceeding on any job without obtaining applicable local building permits and
21 inspections;

22 (11) Using or attempting to use a license that has expired or has been suspended or
23 revoked;

24 (12) Knowingly or intentionally engaging any subcontractor to perform work within the
25 scope of the general or residential construction contract which requires a license under
26 Chapter 14 of this title who does not possess a current and valid license for such work;
27 or

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

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

34 (1) Place the license holder on probation or reprimand the license holder;

35 (2) Revoke a license, including the license of a person as an individual as well as that of
36 a qualifying agent of a business organization together with the interest of the business

1 organization qualified thereby in such license; suspend such a license for a stated period
2 of time not exceeding one year; or deny the issuance or renewal of the license;

3 (3) Require financial restitution to a consumer for financial harm directly related to a
4 violation of a provision of this chapter;

5 (4) Impose an administrative fine not to exceed \$5,000.00 for each violation;

6 (5) Require continuing education; or

7 (6) Assess costs associated with the investigation and prosecution.

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

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

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

17 43-41-17.

18 (a) The licensing requirements imposed by this chapter and the sanctions and
19 consequences relating thereto shall not become effective and enforceable until two years
20 after the effective date of this chapter. On and after such date, no person, whether an
21 individual or a business organization, shall have the right to engage in the business of
22 residential contracting or general contracting without a current, valid residential contractor
23 license or general contractor license, respectively, issued by the division under this chapter
24 or, in the case of a business organization, unless such business organization shall have a
25 qualifying agent as provided in this chapter holding such a current, valid residential
26 contractor or general contractor license on behalf of such organization issued to such
27 qualifying agent as provided in this chapter. Notwithstanding the foregoing, persons
28 seeking licensure under this chapter and exemption from examination under paragraphs (1)
29 and (2) of subsection (a) of Code Section 43-41-8 shall submit their applications, including
30 all necessary proof of the basis of exemption from examination for such license, starting
31 one year after the effective date of this chapter. The period for submission of such
32 applications and requests for exemption from the examination requirements shall extend
33 thereafter for a period of six months. Furthermore, notwithstanding the foregoing, any
34 person seeking licensure under this chapter and exemption from examination under
35 paragraph (3) of subsection (a) of Code Section 43-41-8 may submit his or her application,

1 including all necessary proof of the basis of such exemption starting 18 months after the
2 effective date of this chapter and continuing thereafter.

3 (b) As a matter of public policy, any contract entered into two or more years after the
4 effective date of this chapter for the performance of work for which a residential contractor
5 or general contractor license is required by this chapter and which is between an owner and
6 a contractor who does not have a valid and current license required for such work in
7 accordance with this chapter shall be unenforceable in law or in equity by the unlicensed
8 contractor. For purposes of this subsection, a contractor shall be considered unlicensed
9 only if the contractor was unlicensed on the effective date of the original contract for the
10 work, if stated therein, or, if not stated, the date the last party to the contract executed such
11 contract, if stated therein. If the contract does not establish such a date, the contractor shall
12 be considered unlicensed only if the contractor was unlicensed on the first date upon which
13 the contractor provided labor, services, or materials under the contract. Notwithstanding
14 any other provision of law to the contrary, if a contract is rendered unenforceable under this
15 subsection, no lien or bond claim shall exist in favor of the unlicensed contractor for any
16 labor, services, or materials provided under the contract or any amendment thereto. This
17 subsection shall not affect the rights of parties other than the unlicensed contractor to
18 enforce contract, lien, or bond remedies. This subsection shall not affect the obligations
19 of a surety that has provided a bond on behalf of an unlicensed contractor. It shall not be
20 a defense to any claim on a bond or indemnity agreement that the principal or indemnitor
21 is unlicensed for purposes of this subsection.

22 (c) Any person who holds a license issued under this chapter may engage in the business
23 of residential or general contracting, but only as prescribed by the license, throughout the
24 state and no municipality or county may require any such person licensed under this
25 chapter to comply with any additional licensing requirements imposed by such
26 municipality or county relative to the performance of construction work subject to the
27 licensing requirements under this chapter.

28 (d) Any person qualified by the Department of Transportation to perform construction
29 work on roads, streets, bridges, highways, sidewalks, or other grading, paving, or repaving
30 projects; airport runways or taxiways; or railroads, and services incidental thereto, for the
31 department shall not be required to be licensed under this chapter in order to perform any
32 such work for the department or for any other owner requiring similar work to be
33 performed. The general contractor division of the board, in agreement with the Department
34 of Transportation, shall, by rule, define 'services incidental thereto' for the purposes of this
35 subsection only and shall likewise define any other necessary terms as to the scope of the
36 exemption provided by this subsection.

1 (e) Nothing in this chapter shall prevent any person holding a valid license issued by the
2 State Construction Industry Licensing Board, or any division thereof, pursuant to Chapter
3 14 of this title from performing any work defined in the Code sections under which the
4 license held by said person was issued. Furthermore, nothing in this chapter shall preclude
5 a person licensed under Chapter 14 of this title to perform plumbing, conditioned air
6 contracting, utility contracting, electrical contracting, or low-voltage contracting from
7 offering to perform, performing, engaging in, or contracting to engage in the performance
8 of construction work or services directly with an owner, which work or services would
9 otherwise require a general contractor license under this chapter, where the total scope of
10 the work to be performed is predominantly of the type for which such contractor is duly
11 licensed to perform under Chapter 14 of this title such that any other work involved is
12 incidental to and an integral part of the work performed within the scope of such license
13 under said chapter and does not exceed the greater of \$10,000.00 or 25 percent of the total
14 value at the time of contracting of the work to be performed; provided, however, that such
15 contractor may not delegate or assign the responsibility to directly supervise and manage
16 the performance of such other work to a person unless such person is licensed under this
17 chapter and the work being performed by such person is within the scope of that person's
18 license.

19 (f) Nothing in this chapter shall preclude a specialty contractor from offering or
20 contracting to perform or undertaking or performing for an owner limited, specialty, or
21 specific trade contractor work, which does not entail the delegation or assignment to or
22 engagement of any other person or entity, other than direct employees, to supervise,
23 manage, or oversee the performance of any portion of the work undertaken. However,
24 nothing in this chapter shall permit a specialty contractor to perform work falling within
25 the licensing requirements of Chapter 14 of this title where such specialty contractor is not
26 duly licensed under such chapter to perform such work.

27 (g) Nothing in this chapter shall preclude a person from offering or contracting to perform
28 or undertaking or performing for an owner repair work, provided that the person
29 performing the repair work discloses to the owner that such person does not hold a license
30 under this chapter and provided, further, that such work does not affect the structural
31 integrity of the real property.

32 (h) Nothing in this chapter shall preclude any person from constructing a building or
33 structure on real property owned by such person which is intended upon completion for use
34 or occupancy solely by that person and his or her family, firm, or corporation and its
35 employees, and not for use by the general public and not offered for sale or lease. In so
36 doing, such person may act as his or her own contractor personally providing direct
37 supervision and management of all work not performed by licensed contractors. However,

1 if, under this subsection, the person or his or her family, firm, or corporation has previously
2 sold or transferred a building or structure which had been constructed by such person
3 acting without a licensed residential or general contractor within the prior 24 month period,
4 starting from the date on which a certificate of occupancy was issued for such building or
5 structure, then such person may not, under this subsection, construct another separate
6 building or structure without having first obtained on his or her own behalf an appropriate
7 residential or general contractor license or having engaged such a duly licensed contractor
8 to perform such work to the extent required under this chapter, or it shall be presumed that
9 the person, firm, or corporation did not intend such building solely for occupancy by that
10 person and his or her family, firm, or corporation. Further, such person may not delegate
11 the responsibility to directly supervise and manage all or any part of the work relating
12 thereto to any other person unless that person is licensed under this chapter and the work
13 being performed is within the scope of that person's license. In any event, however, all
14 such work must be done in conformity with all other applicable provisions of this title, the
15 rules and regulations of the board and division involved, and any applicable county or
16 municipal resolutions, ordinances, codes, permitting, or inspection requirements.

17 (i) Nothing in this chapter shall preclude an architect licensed pursuant to Chapter 4 of this
18 title or an engineer registered pursuant to Chapter 15 of this title from performing work or
19 providing services within the scope of his or her registration for the practice of architecture
20 or license for practicing engineering.

21 (j) Nothing in this chapter shall preclude an architect licensed pursuant to Chapter 4 of this
22 title or an engineer licensed pursuant to Chapter 15 of this title from offering to perform
23 or offering or rendering design-build services to an owner; provided, however, that such
24 offer or contract shall clearly indicate at the time of such offer or contract that all services
25 of a general contractor incident to the design-build performance shall be performed by a
26 duly licensed general contractor in compliance with other provisions of this chapter and
27 that all services so offered or provided falling within the scope of the licensing
28 requirements of this chapter are offered and rendered by a licensed general contractor in
29 accordance with this chapter.

30 (k) Nothing in this chapter shall apply to the construction, alteration, or repair of buildings
31 classified as an agricultural occupancy or that are used for agricultural storage or
32 agricultural purposes.

33 (l) A contractor licensed under this chapter shall not be required to list on the face of a bid
34 or proposal envelope the license number of any contractor licensed under Chapter 14 of
35 this title that may or will be engaged to perform any work within the licensing requirements
36 of Chapter 14 of this title which comprises part of the work for which such bid or proposal
37 is submitted.

1 (m) Dams, including both earth dams and concrete dams, designed for electrical
2 generation, water storage, or any other purpose may be constructed by either a general
3 contractor licensed under this chapter or by a utility contractor licensed pursuant to Chapter
4 14 of this title."

5 **SECTION 2.**

6 This Act shall become effective only upon the effective date of an appropriation of funds for
7 the purposes of this Act as expressed in a line item making specific reference to the full
8 funding of this Act in an appropriations Act enacted by the General Assembly.

9 **SECTION 3.**

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