

House Bill 1105

By: Representatives Dodson of the 75th, Tumlin of the 38th, Manning of the 32nd, and Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 14 of Title 43 of the Official Code of Georgia Annotated, relating to
2 electrical contractors, plumbers, conditioned air contractors, low-voltage contractors, and
3 utility contractors, so as to provide for the documentation of full-time engagement in the
4 performance of a contracting business; to provide a fine and penalties for the unauthorized
5 use of a license number of a conditioned air contractor; to provide for the issuance of
6 certificates of authorization; to provide that a contract of an unlicensed contractor is
7 unenforceable; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 14 of Title 43 of the Official Code of Georgia Annotated, relating to electrical
12 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility
13 contractors, is amended by striking subsection (h) of Code Section 43-14-8, relating to
14 licensing required for electrical, plumbing, or conditioned air contracting, and inserting a
15 new subsection (h) to read as follows:

16 "(h) No partnership, limited liability company, or corporation shall have the right to engage
17 in the business of conditioned air contracting unless there is regularly connected with such
18 partnership, limited liability company, or corporation a person or persons actually engaged
19 in the performance of such business on a full-time basis who have valid licenses issued to
20 them as provided for in this chapter; provided, however, that partners, officers, and
21 employees of the individual who fulfilled the licensing requirements shall continue to be
22 authorized to engage in the business of conditioned air contracting under a license which
23 was valid at the time of the licensee's death for a period of 90 days following the date of
24 such death. The board shall have the authority to require such documentation as is
25 necessary to determine whether any person engaged in the business of conditioned air
26 contracting is in fact engaged in the performance of such business on a full-time basis.

1 Such documentation shall include, but shall not be limited to, tax records, payroll records,
 2 and time sheets."

3 **SECTION 2.**

4 Said chapter is further amended by striking subsection (e) of Code Section 44-14-12.1,
 5 relating to evidence of violation of licensing requirements, and inserting in lieu thereof new
 6 subsections (e) and (f) to read as follows:

7 "(e) In the event that any person uses the license number of a licensed conditioned air
 8 contractor in any manner in which he or she is not so authorized, including, but not limited
 9 to, obtaining a construction or building permit or purchasing equipment or supplies, the
 10 board shall be authorized to impose a fine not to exceed \$1,000.00 for each occurrence
 11 thereof. Furthermore, the person found guilty of this violation may be prohibited from
 12 obtaining a conditioned air license for a period of five years from the date of the last
 13 violation in the event that he or she makes application to the board for such license.

14 (f) Nothing in this Code section shall be construed to prohibit the board from seeking
 15 remedies otherwise available by statute without first seeking a cease and desist order in
 16 accordance with the provisions of this Code section."

17 **SECTION 3.**

18 Said chapter is further amended by adding a new Code Section 44-14-15 to read as follows:

19 "44-14-15.

20 (a) The performance of or offer to perform conditioned air, electrical, plumbing, or
 21 low-voltage contracting, as defined in this chapter, by individual contractors licensed under
 22 this chapter through a firm, corporation, professional corporation, partnership, association,
 23 or other entity offering contractor services to the public through individual licensed
 24 contractors as agents, employees, officers, members, or partners is permitted subject to the
 25 provisions of this chapter; provided, however, that one or more of the principals, officers,
 26 members, or partners of said firm, corporation, professional corporation, partnership,
 27 association, or entity who act in its behalf as contractors in this state shall be licensed as
 28 provided in this chapter; provided, further, that said firm, corporation, professional
 29 corporation, partnership, association, or entity has been issued a certificate of authorization
 30 by the board as provided in this chapter.

31 (b) A firm, corporation, professional corporation, partnership, association, or other entity
 32 desiring a certificate of authorization shall file with the board an application upon a form
 33 to be prescribed by the board and accompanied by the license fee prescribed by the board.

34 (c)(1) A corporation or professional corporation shall file with the board, using a form
 35 provided by the board, the names and addresses of all officers and board members of the

1 corporation, including the principal officer or officers duly licensed to practice
2 conditioned air, electrical, plumbing, or low-voltage contracting in this state and of an
3 individual or individuals duly licensed to practice conditioned air, electrical, plumbing,
4 or low-voltage contracting within this state who shall be in responsible charge of the
5 practice of conditioned air, electrical, plumbing, or low-voltage contracting in this state
6 by such corporation.

7 (2) A partnership shall file with the board, using a form provided by the board, the names
8 and addresses of all partners of the partnership, including any partner or partners duly
9 licensed to practice conditioned air, electrical, plumbing, or low-voltage contracting in
10 this state and of an individual or individuals duly licensed to practice conditioned air,
11 electrical, plumbing, or low-voltage contracting in this state who shall be in responsible
12 charge of the practice of conditioned air, electrical, plumbing, or low-voltage contracting
13 in this state by such partnership.

14 (3) Any firm, limited liability company, association, or entity which is not a corporation,
15 professional corporation, or partnership shall file with the board, using a form provided
16 by the board, the names and addresses of all principals or members of the firm,
17 association, or entity duly licensed to practice conditioned air, electrical, plumbing, or
18 low-voltage contracting in this state who shall be in responsible charge of the practice of
19 conditioned air, electrical, plumbing, or low-voltage contracting in this state by such firm,
20 limited liability company, association, or other entity.

21 (4) The forms provided for in paragraphs (1) through (3) of this subsection must
22 accompany a biennial renewal fee prescribed by the board. In the event there shall be a
23 change in any of these persons, such change shall be designated on the same form and
24 filed with the board by the firm, corporation, professional corporation, partnership,
25 association, or entity within 30 days after the effective date of the change.

26 (d)(1) After all of the requirements of this Code section have been met, the board shall
27 issue to such firm, corporation, professional corporation, partnership, association, or other
28 entity a certificate of authorization.

29 (2) The board may refuse to issue a certificate of authorization if any facts exist which
30 would entitle the board to suspend or revoke an existing certificate or if the board shall
31 determine that any of the officers, directors, principals, members, agents, or employees
32 of the entity to be licensed are not persons of good character.

33 (3) Every firm, partnership, corporation, or other entity which performs or offers to
34 perform contractor services shall have a resident licensed conditioned air, electrical,
35 plumbing, or low-voltage contractor in responsible charge in each separate branch office
36 in which contracting services are performed or offered to be performed. A resident
37 licensee means a person licensed under this chapter who spends the majority of his or her

1 normal working time at his or her place of business. The registrant can be the resident
2 licensee at only one place of business at one time.

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

21 **SECTION 4.**

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