

House Bill 1542 (AS PASSED HOUSE AND SENATE)

By: Representative Ralston of the 7th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, so as to extend the date by which the licensing requirements imposed by the chapter become effective; to extend the date by which persons must meet and apply to be licensed without examination; to change provisions relating to licensure involving a reciprocal agreement; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, is amended by striking subparagraph (a)(3)(D) of Code Section 43-41-8, relating to eligibility for licensure without examination and reciprocity, and inserting in lieu thereof the following:

"(D) The applicant is otherwise in compliance with all requirements of this state for transaction of such business within this state; provided, however, that such application and request for exemption shall be submitted ~~within the time limits set forth in subsection (a) of Code Section 43-41-17~~ starting January 1, 2007, and continuing thereafter."

SECTION 2.

Said chapter is further amended by striking subsections (a) and (b) of Code Section 43-41-17, relating to the effective date of licensing and sanctioning provisions, and inserting in lieu thereof the following:

"(a) The licensing requirements imposed by this chapter and the sanctions and consequences relating thereto shall not become effective and enforceable until ~~July 1, 2007~~ January 1, 2008. On and after such date, no person, whether an individual or a business organization, shall have the right to engage in the business of residential contracting or

1 general contracting without a current, valid residential contractor license or general
2 contractor license, respectively, issued by the division under this chapter or, in the case of
3 a business organization, unless such business organization shall have a qualifying agent as
4 provided in this chapter holding such a current, valid residential contractor or general
5 contractor license on behalf of such organization issued to such qualifying agent as
6 provided in this chapter. Notwithstanding the foregoing, persons seeking licensure under
7 this chapter and exemption from examination under paragraphs (1) and (2) of subsection
8 (a) of Code Section 43-41-8 shall submit their applications, including all necessary proof
9 of the basis of exemption from examination for such license, starting January 1, 2006. The
10 period for submission of such applications and requests for exemption from the
11 examination requirements shall extend thereafter for a period of ~~six~~ 12 months.
12 Furthermore, notwithstanding the foregoing, any person seeking licensure under this
13 chapter and exemption from examination under paragraph (3) of subsection (a) of Code
14 Section 43-41-8 may submit his or her application, including all necessary proof of the
15 basis of such exemption starting ~~July 1, 2006~~ January 1, 2007, and continuing thereafter.
16 (b) As a matter of public policy, any contract entered into on or after ~~July 1, 2007~~ January
17 1, 2008, for the performance of work for which a residential contractor or general
18 contractor license is required by this chapter and which is between an owner and a
19 contractor who does not have a valid and current license required for such work in
20 accordance with this chapter shall be unenforceable in law or in equity by the unlicensed
21 contractor. For purposes of this subsection, a contractor shall be considered unlicensed only
22 if the contractor was unlicensed on the effective date of the original contract for the work,
23 if stated therein, or, if not stated, the date the last party to the contract executed such
24 contract, if stated therein. If the contract does not establish such a date, the contractor shall
25 be considered unlicensed only if the contractor was unlicensed on the first date upon which
26 the contractor provided labor, services, or materials under the contract. Notwithstanding
27 any other provision of law to the contrary, if a contract is rendered unenforceable under this
28 subsection, no lien or bond claim shall exist in favor of the unlicensed contractor for any
29 labor, services, or materials provided under the contract or any amendment thereto. This
30 subsection shall not affect the rights of parties other than the unlicensed contractor to
31 enforce contract, lien, or bond remedies. This subsection shall not affect the obligations of
32 a surety that has provided a bond on behalf of an unlicensed contractor. It shall not be a
33 defense to any claim on a bond or indemnity agreement that the principal or indemnitor is
34 unlicensed for purposes of this subsection."

SECTION 3.

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2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

SECTION 4.

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