

Senate Bill 65

By: Senators Seabaugh of the 28th and Weber of the 40th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to mechanics and materialmen, so as to provide a definition of
3 "single-family residential real estate"; to provide for certain requirements prior to entering
4 into a contract to perform work on single-family residential real estate; to provide for certain
5 requirements prior to receiving payment for contracted work performed on single-family
6 residential real estate; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
10 relating to mechanics and materialmen, is amended by revising Code Section 44-14-360,
11 relating to definitions, to read as follows:

12 "44-14-360.

13 As used in this part, the term:

14 (1) 'Contractor' means a contractor having privity of contract with the owner of the real
15 estate.

16 (2) 'Land surveyor' means the same as the definition thereof in Code Section 43-15-2.

17 (3) 'Materials,' in addition to including those items for which liens are already permitted
18 under this part, means tools, appliances, machinery, or equipment used in making
19 improvements to the real estate, to the extent of the reasonable value or the contracted
20 rental price, whichever is greater, of such tools, appliances, machinery, or equipment.

21 (4) 'Materialmen' means all persons furnishing the materials, tools, appliances,
22 machinery, or equipment included in the definition of materials in paragraph (3) of this
23 Code section.

24 (5) 'Professional engineer' ~~means the same as the definition thereof~~ shall have the same
25 meaning as provided in Code Section 43-15-2.

1 (6) 'Registered forester' ~~means the same as the definition of such term~~ shall have the
 2 same meaning as provided in Code Section 12-6-41.

3 (7) 'Registered land surveyors' and 'registered professional engineers' means land
 4 surveyors or professional engineers who are registered as land surveyors or professional
 5 engineers under Chapter 15 of Title 43 at the time of performing, rendering, or furnishing
 6 services protected under this part.

7 (8) 'Residential property' means single-family and two-family, three-family, and
 8 four-family residential real estate.

9 (9) 'Single-family residential real estate' means an owner occupied structure designed for
 10 use as a dwelling unit for one family, including but not limited to houses, condominium
 11 units, or any combination of manufactured homes and lots.

12 (10) 'Subcontractor' means, but is not limited to, subcontractors having privity of contract
 13 with the contractor."

14 SECTION 2.

15 Said part is further amended by adding three new subsections to Code Section 44-14-361,
 16 relating to creating liens, to read as follows:

17 "(c) Upon entering into a contract with the owner of single-family residential real estate
 18 for work upon such property, a contractor shall provide the owner of the single-family
 19 residential real estate with a government form, to be created by the Department of
 20 Consumer Affairs, notifying the owner of certain parties' lien rights under paragraph (2)
 21 of subsection (a) of this Code section.

22 (d) Prior to an owner making payment to a contractor for performance in accordance with
 23 the provisions of a contract dealing with single-family residential real estate, the contractor
 24 shall provide the owner with a sworn, written affidavit stating that all subcontractors and
 25 materialmen furnishing material to the contractors and subcontractors, and all laborers
 26 furnishing labor to the contractors and subcontractors, have been paid the agreed price
 27 under the contract or reasonable value for work done under the provisions of the contract.

28 (e) Failure to meet the requirements of subsections (c) and (d) of this Code section shall
 29 invalidate any lien filed pursuant to subsection (a) of this Code section against
 30 single-family residential real estate."

31 SECTION 3.

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