

Senate Bill 115

By: Senators Shafer of the 48th, Johnson of the 1st, Williams of the 19th, Rogers of the 21st,
Pearson of the 51st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to
2 residential and general contractors, so as to revise the licensure provisions for residential and
3 general contractors; to revise certain definitions; to provide that the State Licensing Board
4 for Residential and General Contractors may provide interpretation and guidance on the
5 policies and procedures of the board; to provide for inactive licenses; to provide for
6 categories of licenses; to allow the board to contract for the development and administration
7 of examinations; to revise the manner of renewing licenses; to provide for penalties for
8 intentionally attempting to evade licensing requirements; to provide for exceptions to
9 licensing requirements; to provide for related matters; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and
14 general contractors, is amended by revising paragraphs (4), (5), and (7) of Code Section
15 43-41-2, relating to definitions, as follows:

16 "(4) 'Contractor,' except as specifically exempted by this chapter, means a person who
17 is qualified under this chapter and who, for compensation, contracts to, offers to
18 undertake or undertakes to, submits a bid or a proposal to, or personally or by others
19 performs the construction or the management of the construction of improvements to real
20 property for an owner, including a person who installs industrialized buildings as defined
21 in paragraphs (3) and (4) of Code Section 8-2-111, including the construction or
22 improvement of, addition to, or the repair, alteration, remodeling, or demolition of any
23 building, bridge, or other structure, including related improvements to the real property,
24 for use by the owner or by others or for resale to others. The term 'contractor' for
25 purposes of this chapter shall include a person who contracts to, undertakes to, or submits
26 a bid or proposal to perform, or otherwise does himself or herself perform, for an owner:

1 (A) Construction management services relative to the performance by others of such
 2 construction activities where the person performing such construction management
 3 services is at risk contractually to the owner for the performance and cost of the
 4 construction; and

5 (B) Services of a contractor as part of performance of design-build services, whether
 6 as a prime contractor, joint venture partner, or as a subcontractor to a design
 7 professional acting as prime contractor as part of a design-build entity or combination.

8 Both residential and general contractors, in addition to contractors licensed under Chapter
 9 14 of this title to perform such work or any component thereof, shall be permitted to
 10 construct storm-water management systems comprising any storm-water conveyance or
 11 storm-water detention facility that moves storm or surface water from a specific point on
 12 a wholly contained construction project site to another specific point on the same project
 13 site and which are wholly contained within the project site and are not part of or
 14 connected to any public or private water treatment system, waste-water treatment system,
 15 or storm-water system.

16 (5) 'General contractor' means a contractor whose services are unlimited as to the type
 17 of work which he or she may do, subject to the financial limitations as may be imposed
 18 by a subclassification created pursuant to paragraph (8) of subsection (b) of Code Section
 19 43-41-5, and who may contract for, undertake to perform, submit a bid or a proposal or
 20 otherwise offer to perform, and perform any activity or work as a contractor requiring
 21 licensure under this chapter including within its scope any work requiring licensure under
 22 Chapter 14 of this title; provided, however, that any work contractually undertaken by a
 23 general contractor in the nature of electrical contracting, plumbing, conditioned air
 24 contracting, low voltage contracting, or utility contracting which falls within the licensing
 25 requirements of Chapter 14 of this title may not be performed by the general contractor
 26 but shall only be performed by a person who is duly licensed to perform such work under
 27 Chapter 14 of this title. The construction of all private, commercial, institutional,
 28 industrial, public, and other buildings and structures under contract with or engagement
 29 directly by an owner shall be undertaken by a general contractor, except as otherwise
 30 expressly set forth in or excluded from operation of this chapter."

31 "(7) 'Qualifying agent' means a person who possesses the requisite skill, knowledge, and
 32 experience and has the responsibility to supervise, direct, manage, and control all of the
 33 contracting activities within the State of Georgia of a contractor doing business in the
 34 form of a business organization, with which he or she is affiliated by employment or
 35 ownership; who has the responsibility to supervise, direct, manage, and control
 36 construction activities on a ~~job~~ any project for which he or she has obtained the building
 37 permit pursuant to Code Section 43-41-14; and whose technical and personal

1 qualifications have been determined by investigation and examination, except as
 2 exempted under Code Section 43-41-8, as provided in this chapter, as attested by the
 3 division."

4 SECTION 2.

5 Said chapter is further amended by revising subsections (b) and (f) of Code Section 43-41-5,
 6 relating to board meetings and the power of the board and its divisions, as follows:

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

8 (1) Request from the various departments, agencies, and authorities of the state and its
 9 political subdivisions and their agencies and authorities such available information as
 10 they may require in their work; and all such departments, agencies, and authorities shall
 11 furnish such requested available information to the board and its divisions within a
 12 reasonable time;

13 (2) Provide by regulation for reciprocity with other states or territories of the United
 14 States in the licensing of residential and general contractors, provided that such other
 15 states have requirements substantially equal to the requirements in force in this state for
 16 registration, licensure, or certification and that any such contractor holding a current and
 17 valid license, certificate, or registration from another state or territory seeking licensure
 18 by way of reciprocity shall demonstrate that such applicant meets, in the discretion of the
 19 respective division, the qualifications, requirements, and criteria set forth in Code Section
 20 43-41-6, other than the requirement to take and pass an examination as set forth in
 21 subsection (d) of Code Section 43-41-6, and that such applicant is otherwise in
 22 compliance with all requirements of the State of Georgia for transaction of such business
 23 within this state; provided, further, that a similar privilege is offered to residents of this
 24 state by the other state or territory;

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

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

28 (5) Establish the policies and procedures for regulating the businesses of residential
 29 contracting and general contracting and provide interpretation and guidance regarding the
 30 implementation and application of such policies and procedures;

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

33 (7) Promulgate and adopt rules and regulations necessary to carry out this chapter;

34 (8) Establish and define appropriate categories of general contractor licensure based
 35 upon financial criteria; and

36 (9) Allow for inactive status pursuant to Code Section 43-1-22."

1 "(f) The denial of a license on grounds other than those enumerated in this chapter, the
 2 issuance of a private reprimand, the denial of a license by reciprocity, the denial of a
 3 request for reinstatement of a revoked license, or the refusal to issue a previously denied
 4 license shall not be considered to be a contested case within the meaning of Chapter 13 of
 5 Title 50, the 'Georgia Administrative Procedure Act.' Notice and hearing within the
 6 meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall
 7 be allowed to appear before the ~~board~~ appropriate division if he or she so requests."

8 SECTION 3.

9 Said chapter is further amended by revising subsections (a), (f), (i), and (j) of Code Section
 10 43-41-6, relating to eligibility for licensure as residential-basic contractor, residential-light
 11 commercial contractor, and general contractor, as follows:

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

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

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

23 Additionally, all applicants must submit to and successfully pass an examination prepared
 24 by, prepared for, or approved by the appropriate division, except where an applicant is
 25 otherwise qualified for licensure and has satisfied the appropriate division requirements and
 26 regulations for licensure pursuant to Code Section 43-41-8 exempting such applicant from
 27 the examination requirement or where the applicant is an individual acting as a qualifying
 28 agent for a business organization and has previously obtained and maintained continuously
 29 a license issued by the appropriate division, either as an individual doing business in his
 30 or her own name or doing business as an individual in a trade name as a sole proprietor or
 31 as a qualifying agent for another business organization."

32 "(f)(1) The residential contractor division and the general contractor division shall each
 33 conduct or cause to be conducted an examination of all qualified applicants, except those
 34 exempted from the examination requirement pursuant to Code Section 43-41-8.

35 (2) The residential contractor division shall conduct or cause to be conducted separate
 36 examinations for applicants for residential-basic and residential-light commercial licenses

1 for the purpose of determining a particular applicant's ability to make a practical
2 application of his or her knowledge of the profession of residential contracting in the
3 particular subcategory for which a license is sought; the applicant's qualifications in
4 reading plans and specifications; his or her knowledge of building codes, estimating
5 costs, construction, ethics, contracting, and other similar matters pertaining to such
6 residential contracting business; his or her knowledge as to the responsibilities of a
7 residential contractor to the public and to owners, subcontractors, and suppliers; and his
8 or her knowledge of the requirements of the laws of this state relating to residential-basic
9 and residential light-commercial contractors, construction, workers' compensation,
10 insurance, and liens.

11 (3) The general contractor division shall conduct or cause to be conducted an
12 examination to ascertain the particular applicant's ability to make a practical application
13 of his or her knowledge of the profession of commercial general contracting; the
14 applicant's qualifications in reading plans and specifications; his or her knowledge of
15 building codes, estimating costs, construction, ethics, contracting, and other similar
16 matters pertaining to the general contracting business; his or her knowledge as to the
17 responsibilities of a general contractor to the public and to owners, subcontractors, and
18 suppliers; and his or her knowledge of the requirements of the laws of this state relating
19 to general contractors, construction, workers' compensation, insurance, surety bonding,
20 and liens.

21 (4) If the results of the applicant's examination are satisfactory to the appropriate
22 division, or he or she is exempted from the examination requirement under Code Section
23 43-41-8, and if he or she and any affiliated business organization has met the other
24 qualifications and requirements set forth in this Code section, then the appropriate
25 division shall issue to the applicant a license to engage in business as a residential or
26 general contractor in this state, as provided in such license, in his or her own name as a
27 sole proprietor or as a qualifying agent for the affiliated business organization and in the
28 name of such business organization, pursuant to and in accordance with the requirements
29 set forth in Code Section 43-41-9. A residential contracting license shall indicate for
30 which of the two subcategories, residential-basic or residential-light commercial, the
31 licensee is qualified."

32 "(i) Such licenses shall be renewable biennially. Licenses may be renewed subsequent to
33 their expiration within six months of the date of expiration by ~~mailing written application~~
34 for submitting a renewal as prescribed by the board and paying a late renewal fee as
35 determined by the board. After six months has elapsed from the date of expiration, such
36 license may be reinstated in accordance with the rules and regulations of the board.

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

6 SECTION 4.

7 Said chapter is further amended by revising Code Section 43-41-8, relating to eligibility for
 8 licensure without examination, as follows:

9 "43-41-8.

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

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

30 (2) Any person who has successfully and efficiently engaged in the comparable category
 31 of residential or general contracting in this state as provided in this Code section;
 32 provided, however, that such person shall be either a resident and citizen of the state of
 33 Georgia or, if applying as a qualifying agent for a business organization, such business
 34 organization shall be either incorporated in Georgia or is a business organization
 35 otherwise authorized and certified to transact business in Georgia with a regular office
 36 and place of business in Georgia currently and having had such office and place of

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

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

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

33 (B) The application requirements and application form submitted to the other state or
34 territory upon which such license was issued ~~and the examination form and substance~~
35 are available for review by the appropriate division and the examination results are
36 made available to the appropriate division;

1 (C) The applicant shall demonstrate that he or she meets the qualifications,
 2 requirements, and criteria set forth in subsections (a), (b), (c), and (d) of Code Section
 3 43-41-6; and

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

8 (4) Any person who holds a current and valid license issued under this chapter to engage
 9 in the comparable category of residential or general contracting which license was issued
 10 to him or her in their capacity either as an individual licensee or as a qualifying agent for
 11 a business organization.

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~~ this Code section, on any basis set forth above, shall
 15 have the burden of establishing to the satisfaction and within the discretion of the
 16 appropriate division that the requirements for such exemption have been satisfied. The
 17 decision of such division as to the satisfaction of the requirements for such exemption from
 18 taking the examination shall, in the absence of fraud, be conclusive."

19 SECTION 5.

20 Said chapter is further amended by revising Code Section 43-41-9, relating to licensing of
 21 individuals and organizations, as follows:

22 "43-41-9.

23 (a) If an individual applicant proposes to engage in residential or general contracting in the
 24 individual's own name or a trade name where the individual is doing business as a sole
 25 proprietorship, the license shall be issued only to that individual. Where an applicant under
 26 this chapter is seeking issuance of a residential or general contractor license on behalf and
 27 for the benefit of a business organization seeking to engage in residential or general
 28 contracting as a business organization, ~~or in any name other than the applicant's legal name~~
 29 ~~or trade name where the applicant is doing business as a sole proprietorship~~, the application
 30 for a license under this chapter must be submitted by and through an individual qualifying
 31 agent for such business organization or entity and expressly on behalf of such business
 32 organization or entity. In such case, the license shall be issued to the individual qualifying
 33 agent and to the affiliated business organization or entity on whose behalf the application
 34 was made. It shall be unlawful for any person, firm, corporation, or association to operate
 35 a business organization or entity engaged in the business of residential or general
 36 contracting without first obtaining a license from the appropriate division after the effective

1 date of the licensing requirements as specified in subsection (a) of Code Section 43-41-17.

2 The appropriate division shall not issue a license to any business organization or entity to
 3 engage in residential or general contracting unless such business organization or entity
 4 employs at least one currently licensed individual residential or general contractor serving
 5 as its qualifying agent who is actually engaged by ownership or employment in the practice
 6 of residential or general contracting for such business organization or entity ~~on a full-time~~
 7 ~~basis~~ and provides adequate supervision and is responsible for the projects of such business
 8 organization or entity. A business organization may allow more than one person to act as
 9 a qualifying agent for such organization, subject to each such individual qualifying agent
 10 having successfully satisfied the requirements for issuance of a license under this chapter
 11 and having obtained issuance of such a license by the appropriate division. Each such
 12 business organization shall have at least one qualifying agent in order to be considered
 13 authorized to engage in such contracting business.

14 (b) The application for a license by a qualifying agent must include an affidavit on a form
 15 provided by the board attesting that the individual applicant has final approval authority
 16 for all construction work performed by the business organization or entity within the State
 17 of Georgia and that the individual applicant has final approval authority on all business
 18 matters, including contracts and contract performance and financial affairs of the business
 19 organization or entity.

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

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

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

28 Each such licensed individual or qualifying agent shall be considered a qualifying agent
 29 of such joint venture.

30 (d) If, during the period encompassed by a license issued to a qualifying agent acting for
 31 and on behalf of an affiliated business organization, there is a change in any information
 32 that is required to be stated on the application, the business organization shall, within 45
 33 days after such change occurs, ~~maintain~~ furnish the correct information to the appropriate
 34 division.

35 (e)(1) At least one qualifying agent shall be licensed under this chapter in order for the
 36 business organization to obtain a license as a residential or general contractor. If any
 37 qualifying agent ceases to be affiliated with such business organization, for any reason,

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

26 (2) The A person licensed under this chapter either as an individual doing business in his
27 or her name or doing business in a trade name as a sole proprietor may serve as a
28 qualifying agent for a business organization upon application and demonstration of
29 satisfaction by such business organization of all financial and insurance requirements
30 pursuant to Code Section 43-41-6. A qualifying agent may serve in such capacity for
31 more than one business organization, provided that he or she shall satisfy the criteria for
32 servicing in such capacity with regard to each such business organization. A qualifying
33 agent shall inform the division having jurisdiction in writing when he or she proposes to
34 engage in contracting in his or her own name or in affiliation as a qualifying agent with
35 another business organization, and he or she or such new business organization shall
36 supply the same information to the division as required of applicants under this chapter.
37 Such person shall be deemed to be a licensed residential or general contractor for the

1 original term of his or her license for the purpose of engaging in contracting as an
 2 individual in his or her own name, provided that he or she qualified for such license based
 3 on his or her own personal qualifications as to financial responsibility and insurance.
 4 Otherwise, such individual shall be required to submit a new application demonstrating
 5 satisfaction of such financial and insurance requirements ~~himself or herself~~ in order to
 6 engage in the business of contracting under this chapter as an individual in his or her own
 7 name or doing business as an individual in a trade name as a sole proprietor or by the
 8 business organization he or she desires to qualify in order to obtain a license for such
 9 other business organization, but such person shall be entitled to continue engaging in the
 10 business of residential or general contracting in accordance with and under his or her
 11 previously issued license unless and until the appropriate division determines that the
 12 person seeking issuance of the license no longer meets these requirements.

13 (3) Upon a favorable determination by the division having jurisdiction, after
 14 investigation of the financial responsibility, if applicable, and insurance of the ~~qualifying~~
 15 ~~agent and the new business organization~~ applicant, the division shall ~~issue~~ notify the
 16 applicant, whether the applicant was previously approved as an individual or a qualifying
 17 agent, that the applicant is approved, without an examination, for a new license ~~in the~~
 18 ~~name of the qualifying agent and in the name of the new affiliated business organization.~~

19 (f) Disciplinary action and other sanctions provided in this chapter may be administered
 20 against a business organization operating under a license issued through its licensed
 21 qualifying agent or agents in the same manner and on the same grounds as disciplinary
 22 actions or sanctions against an individual or license holder acting as its qualifying agent
 23 under this chapter. The divisions or the board may deny the license to a qualifying agent
 24 for any business organization if the qualifying agent or business organization has been
 25 involved in past disciplinary actions or on any grounds for which individual licenses can
 26 be denied.

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

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

36 (i) Any change in the status of a qualifying agent is prospective only. A qualifying agent
 37 shall for purposes of application of this chapter and the enforcement and disciplinary

1 mechanisms thereunder be and remain responsible for his or her actions or omissions as
 2 well as those of the business organization for which such person had acted as a qualifying
 3 agent occurring during his or her period of service as such qualifying agent as and to the
 4 extent set forth in this chapter. A qualifying agent is not responsible for his or her
 5 predecessor's actions, but is responsible, even after a change in status, for matters for
 6 which he or she was responsible while in a particular status. Further, nothing in this
 7 chapter shall be interpreted as a basis for imposition of civil liability against an individual
 8 qualifying agent by any owner or other third party claimant beyond the liability that would
 9 otherwise exist legally or contractually apart from and independent of the individual's
 10 status as a qualifying agent."

11 SECTION 6.

12 Said chapter is further amended by revising Code Section 43-41-12, relating to penalty for
 13 violating provisions, as follows:

14 "43-41-12.

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

16 (1) Contracts for or bids upon or engages in the construction of any of the projects or
 17 works enumerated in the definitions of residential contractor or general contractor in
 18 Code Section 43-41-2 without having first complied with the appropriate provisions of
 19 this chapter or who shall attempt to practice residential contracting or general contracting
 20 in this state except as provided for in this chapter;

21 (2) Falsely represents, advertises, or holds himself or herself or an affiliated business
 22 organization out as a residential contractor or general contractor licensee duly authorized
 23 to perform work under such classification of licensure pursuant to this chapter;

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

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

28 (5) Uses an expired, suspended, or revoked license to continue engaging in residential
 29 contracting or general contracting; ~~or~~

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

33 (7) Intentionally and repeatedly misrepresents or manipulates the value or percentage of
 34 work at the time of contract under subsections (e) and (f) of Code Section 43-41-17 to
 35 avoid the licensing requirements of this chapter,

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

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

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

10 **SECTION 7.**

11 Said chapter is further amended by revising subsections (e) and (f) of Code Section 43-41-17,
 12 relating to effective date of licensing and sanctioning provisions, and adding a new
 13 subsection (n) as follows:

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

32 (f) Nothing in this chapter shall preclude a specialty contractor from offering or
 33 contracting to perform or undertaking or performing for an owner limited, specialty, or
 34 specific trade contractor work, ~~which does not entail the delegation or assignment to or~~
 35 ~~engagement of any other person or entity, other than direct employees, to supervise,~~
 36 ~~manage, or oversee the performance of any portion of the work undertaken. However,~~

1 ~~nothing in this chapter shall permit a specialty contractor to perform work falling within~~
2 ~~the licensing requirements of Chapter 14 of this title where such specialty contractor is not~~
3 ~~duly licensed under such chapter to perform such work. The board shall by rule or policy~~
4 ~~identify specialty contractors or other criteria to determine eligibility under the exemption~~
5 ~~of this subsection. The specialty contractor otherwise exempted from license requirements~~
6 ~~under this chapter may perform work for an owner that would otherwise require a license~~
7 ~~under this chapter where the total scope of the work to be performed is predominately of~~
8 ~~the type for which such specialty contractor is duly recognized as exempt under this~~
9 ~~subsection by the board, provided that such other work involved is incidental to and an~~
10 ~~integral part of the exempt work performed by the specialty contractor and does not exceed~~
11 ~~the greater of \$10,000.00 or 25 percent of the total value at the time of contracting of the~~
12 ~~work to be performed.~~
13 ~~"(n) Nothing in this chapter shall apply to the construction or installation of manufactured~~
14 ~~homes as defined in paragraph (4) of Code Section 8-2-131."~~

15 **SECTION 8.**

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