

ADOPTED

1 Senator Shafer of the 48th offered the following amendment:

2 *Amend the Senate Regulated Industries and Utilities substitute to SB 115 (LC 36 0560S) by*
 3 *inserting after "renewing licenses;" on line 7 on page 1 "to revise certain dates;"*.

4 *By striking lines 16 through 23 on page 1 and inserting in lieu thereof the following:*

5 "(4) 'Contractor,' except as specifically exempted by this chapter, means a person who
 6 is qualified, or required to be qualified, under this chapter and who, for compensation,
 7 contracts to, offers to undertake or undertakes to, submits a bid or a proposal to, or
 8 personally or by others performs the construction or the management of the construction
 9 ~~of improvements to real property~~ for an owner including of any building, bridge, or other
 10 structure, including a person who installs industrialized buildings as defined in
 11 paragraphs (3) and (4) of Code Section 8-2-111, for the construction or improvement of,
 12 addition to, or the repair, alteration, or remodeling, ~~or demolition~~ of any such building,
 13 bridge, or ~~other structure; including related improvements to the real property,~~

14 *By redesignating Sections 2 through 8 as Sections 3 through 9, respectively, and inserting*
 15 *after line 3 on page 3 the following:*

SECTION 2.

16 Said chapter is further amended by revising subsections (b) and (c) of Code Section 43-41-3,
 17 relating to the creation of State Licensing Board for Residential and General Contractors, as
 18 follows:
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20 "(b) The residential contractor division shall consist of seven members and, except as
 21 otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the
 22 practice of the two subcategories of residential contracting, residential-basic contractors
 23 and residential-light commercial contractors. Five members shall be residential contractors
 24 eligible for licensure under this chapter. Effective July 1, ~~2007~~ 2008, all residential
 25 contractor members shall be required to be licensed under this chapter. At least two of the
 26 residential contractor members shall be qualified to perform residential-light commercial
 27 type projects; three shall be qualified and shall predominantly perform residential-basic
 28 type projects; one shall be a residential contractor whose business predominately involves
 29 remodeling projects; one shall be a residential contractor who constructs at least an average
 30 of 20 residences per year; and all must be geographically diverse. One member shall be
 31 a public building official and one member shall be a public member. The public member

1 shall have no ties with the residential construction industry and shall represent the interests
 2 of the public at large. The initial member terms on the residential contractor division shall
 3 be staggered so that all terms do not expire simultaneously. Three members shall serve
 4 initial terms of five years, three members shall serve initial terms of four years, and one
 5 member shall serve an initial term of three years. The residential contractor division shall
 6 meet at least six times each year for the purpose of transacting such business as may
 7 properly come before it.

8 (c) The general contractor division shall consist of seven members and, except as
 9 otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the
 10 practice of general contracting. Five members shall be general contractors eligible for
 11 licensure under this chapter. Effective July 1, ~~2007~~ 2008, all general contractor members
 12 shall be required to be licensed under this chapter. At least two of the general contractor
 13 members shall be small-volume builders with an annual contracting volume of less than
 14 \$5 million and all of whom must be geographically diverse. One member shall be a
 15 currently licensed or registered architect or engineer and one member shall be a public
 16 building official. The initial member terms on the general contractor division shall be
 17 staggered so that all terms do not expire simultaneously. Three members, including at least
 18 two contractor members, shall serve initial terms of five years; three members, including
 19 at least two contractor members, shall serve initial terms of four years; and one member
 20 shall serve an initial term of three years. The general contractor division shall meet at least
 21 six times each year for the purpose of transacting such business as may properly come
 22 before it."

23 *By striking lines 11 through 13 on page 13 and inserting in lieu thereof the following:*

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

27 "(a) The licensing requirements imposed by this chapter and the sanctions and
 28 consequences relating thereto shall not become effective and enforceable until ~~January~~
 29 July 1, 2008. On and after such date, no person, whether an individual or a business
 30 organization, shall have the right to engage in the business of residential contracting or
 31 general contracting without a current, valid residential contractor license or general
 32 contractor license, respectively, issued by the division under this chapter or, in the case of
 33 a business organization, unless such business organization shall have a qualifying agent as
 34 provided in this chapter holding such a current, valid residential contractor or general
 35 contractor license on behalf of such organization issued to such qualifying agent as
 36 provided in this chapter. Notwithstanding the foregoing, persons seeking licensure under

1 this chapter and exemption from examination under paragraphs (1) and (2) of subsection
2 (a) of Code Section 43-41-8 shall submit their applications, including all necessary proof
3 of the basis of exemption from examination for such license, starting January 1, 2006. The
4 period for submission of such applications and requests for exemption from the
5 examination requirements shall extend thereafter for a period of 12 months. Furthermore,
6 notwithstanding the foregoing, any person seeking licensure under this chapter and
7 exemption from examination under paragraph (3) of subsection (a) of Code Section
8 43-41-8 may submit his or her application, including all necessary proof of the basis of
9 such exemption starting January 1, 2007, and continuing thereafter.

10 (b) As a matter of public policy, any contract entered into on or after ~~January~~ July 1, 2008,
11 for the performance of work for which a residential contractor or general contractor license
12 is required by this chapter and not otherwise exempted under this chapter and which is
13 between an owner and a contractor who does not have a valid and current license required
14 for such work in accordance with this chapter shall be unenforceable in law or in equity by
15 the unlicensed contractor. For purposes of this subsection, a contractor shall be considered
16 unlicensed only if the contractor was unlicensed on the effective date of the original
17 contract for the work, if stated therein, or, if not stated, the date the last party to the contract
18 executed such contract, if stated therein. If the contract does not establish such a date, the
19 contractor shall be considered unlicensed only if the contractor was unlicensed on the first
20 date upon which the contractor provided labor, services, or materials under the contract.
21 Notwithstanding any other provision of law to the contrary, if a contract is rendered
22 unenforceable under this subsection, no lien or bond claim shall exist in favor of the
23 unlicensed contractor for any labor, services, or materials provided under the contract or
24 any amendment thereto. This subsection shall not affect the rights of parties other than the
25 unlicensed contractor to enforce contract, lien, or bond remedies. This subsection shall not
26 affect the obligations of a surety that has provided a bond on behalf of an unlicensed
27 contractor. It shall not be a defense to any claim on a bond or indemnity agreement that
28 the principal or indemnitor is unlicensed for purposes of this subsection."

29 *By inserting after "rule or policy" on line 3 on page 14 "by January 1, 2008,".*