

Senate Bill 106

By: Senators Ligon, Jr. of the 3rd, Loudermilk of the 52nd, Williams of the 19th and Seabaugh of the 28th

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 change certain definitions; to change certain
3 duties of the State Licensing Board for Residential and General Contractors; to change
4 certain provisions relative to property owners acting as contractors; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and
9 general contractors, is amended in Code Section 43-41-2, relating to definitions, by revising
10 paragraphs (5) and (9), as follows:

11 "(5) 'General contractor' means a contractor whose services are unlimited as to the type
12 of work which he or she may do, subject to the financial limitations as may be imposed
13 by a subclassification created pursuant to paragraph (8) of subsection (b) of Code Section
14 43-41-5, and who may contract for, undertake to perform, submit a bid or a proposal or
15 otherwise offer to perform, and perform any activity or work as a contractor requiring
16 licensure under this chapter including within its scope any work requiring licensure under
17 Chapter 14 of this title and where the total value of the work or activity or of the
18 compensation to be received by the contractor for such activity or work, whichever is the
19 higher, exceeds \$1 million; provided, however, that any work contractually undertaken
20 by a general contractor in the nature of electrical contracting, plumbing, conditioned air
21 contracting, low voltage contracting, or utility contracting which falls within the licensing
22 requirements of Chapter 14 of this title may not be performed by the general contractor
23 but shall only be performed by a person who is duly licensed to perform such work under
24 Chapter 14 of this title. The construction of all private, commercial, institutional,
25 industrial, public, and other buildings and structures under contract with or engagement

26 directly by an owner shall be undertaken by a general contractor, except as otherwise
 27 expressly set forth in or excluded from operation of this chapter."

28 "(9) 'Residential contractor' means any contractor who may contract for, undertake to
 29 perform, submit a bid or a proposal or otherwise offer to perform, and perform any
 30 activity or work as a contractor requiring licensure under this chapter for a fixed price,
 31 commission, fee, wage, or other compensation or who undertakes any activity or work
 32 on his or her own behalf or for any person or business organization that is not licensed
 33 as a licensed residential contractor pursuant to this chapter where such activity or work
 34 falls into the category of residential-basic contractor or residential-light commercial
 35 contractor as defined in this Code section and where the total value of the work or activity
 36 or of the compensation to be received by the contractor for such activity or work,
 37 whichever is the higher, exceeds ~~\$2,500.00~~ \$1 million. The term 'residential contractor'
 38 shall include both a residential-basic contractor and a residential-light commercial
 39 contractor, except where otherwise expressly stated. The work or activity performed by
 40 a residential contractor may include within its scope any work requiring licensure under
 41 Chapter 14 of this title; provided, however, that any work contractually undertaken by a
 42 residential contractor in the nature of electrical contracting, plumbing, conditioned air
 43 contracting, low voltage contracting, or utility contracting which falls within the licensing
 44 requirements of Chapter 14 of this title may not be performed by the residential
 45 contractor but shall only be performed by a person who is duly licensed to perform such
 46 work under Chapter 14 of this title."

47 **SECTION 2.**

48 Said chapter is further amended in Code Section 43-41-5, relating to board meetings, power
 49 of the board and its divisions, investigations, immunity from liability, failure to appear at
 50 hearing, voluntary surrender, application, and subpoena, by revising paragraphs (3) and (8)
 51 of subsection (b), as follows:

52 "(3) Establish and adjust fees as necessary within the limits set forth in Chapter 1 of this
 53 title; provided, however, that in no event shall the total of the fees required for a person
 54 to become licensed under this chapter exceed \$250.00;"

55 "(8) Establish and define appropriate categories of general contractor licensure based
 56 upon financial criteria where the total value of the work or activity or of the
 57 compensation to be received by the contractor for such activity or work, whichever is the
 58 higher, exceeds \$1 million; and"

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SECTION 3.

60 Said chapter is further amended in Code Section 43-41-5, relating to board meetings, power
 61 of the board and its divisions, investigations, immunity from liability, failure to appear at
 62 hearing, voluntary surrender, application, and subpoenas, by adding a new subsection to read
 63 as follows:

64 "(k) Notwithstanding any provision of this Code section to the contrary, the board shall not
 65 impose a requirement of a line of credit for any project less than \$2 million in excess of
 66 \$15,000.00."

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SECTION 4.

68 Said chapter is further amended in Code Section 43-41-17, relating to the effective date of
 69 licensing and sanctioning provisions, unenforceable contracts, compliance with county or
 70 municipal requirements, exemption for Department of Transportation contractors, and other
 71 exemptions, by revising subsection (h) as follows:

72 "(h) Nothing in this chapter shall preclude any person from constructing a building or
 73 structure on real property owned by such person which is intended upon completion for use
 74 or occupancy solely by that person and his or her family, firm, or corporation and its
 75 employees, and not for use by the general public and not offered for sale or lease. In so
 76 doing, such person may act as his or her own contractor personally providing direct
 77 supervision and management of all work not performed by licensed contractors. ~~However,~~
 78 ~~if, under this subsection, the person or his or her family, firm, or corporation has previously~~
 79 ~~sold or transferred a building or structure which had been constructed by such person~~
 80 ~~acting without a licensed residential or general contractor within the prior 24 month period,~~
 81 ~~starting from the date on which a certificate of occupancy was issued for such building or~~
 82 ~~structure, then such person may not, under this subsection, construct another separate~~
 83 ~~building or structure without having first obtained on his or her own behalf an appropriate~~
 84 ~~residential or general contractor license or having engaged such a duly licensed contractor~~
 85 ~~to perform such work to the extent required under this chapter, or it shall be presumed that~~
 86 ~~the person, firm, or corporation did not intend such building solely for occupancy by that~~
 87 ~~person and his or her family, firm, or corporation. Further, such person may not delegate~~
 88 ~~the responsibility to directly supervise and manage all or any part of the work relating~~
 89 ~~thereto to any other person unless that person is licensed under this chapter and the work~~
 90 ~~being performed is within the scope of that person's license. In any event, however, all~~
 91 ~~such work must be done in conformity with all other applicable provisions of this title, the~~
 92 ~~rules and regulations of the board and division involved, and any applicable county or~~
 93 ~~municipal resolutions, ordinances, codes, permitting, or inspection requirements."~~

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SECTION 5.

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