

House Bill 635

By: Representatives Wiedower of the 121st, Frye of the 122nd, Reeves of the 99th, Persinger of the 119th, Franklin of the 160th, 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 commercial general contractors, so as to revise provisions relating to the State
3 Licensing Board for Residential and Commercial General Contractors; to revise and clarify
4 qualifications for licensure as a residential or commercial general contractor; to revise
5 provisions relating to examination of applicants; to revise provisions relating to the refusal
6 to grant a license, revocation of a license, or other disciplinary action of the board; to provide
7 for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and
11 commercial general contractors, is amended by revising Code Section 43-41-3, relating to
12 creation of State Licensing Board for Residential and Commercial General Contractors,
13 membership, divisions, vacancies, qualifications, terms, and meetings, as follows:

14 "43-41-3.

15 (a) There is created the State Licensing Board for Residential and Commercial General
16 Contractors consisting of 15 members appointed by the Governor for five-year terms. The

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17 board shall be assigned to the Secretary of State's office for administrative purposes and
18 shall be under the jurisdiction of the division director and shall operate in accordance with
19 and pursuant to the provisions of Chapter 1 of this title, as applicable. The board shall be
20 composed of two divisions: the residential contractor division, having jurisdiction of and
21 authority over the two subcategories of residential contracting, residential-basic contractors
22 and residential-light commercial contractors, and the commercial general contractor
23 division. Eight members shall be appointed and serve as members of the residential
24 contractor division of the board and seven members shall be appointed and serve as
25 members of the commercial general contractor division of the board. Members shall serve
26 until the expiration of their respective terms and until their successors are appointed and
27 qualified. Vacancies occurring during a term shall be filled by appointment of the
28 Governor for the remainder of the unexpired term and such replacement shall meet the
29 requirements and criteria of selection of the person previously holding the vacant position.
30 To be eligible to serve on the respective divisions of the board, each contractor member
31 shall be licensed in the category to which the member is appointed and shall remain
32 actively involved in the construction contracting business and shall have been so engaged
33 for a period of not less than five consecutive years before the date of appointment in the
34 particular contracting business, as a residential contractor or commercial general
35 contractor, corresponding to the division for which such person is appointed. The position
36 of any appointed member of the board who, during his or her term of appointment, shall
37 cease to meet the qualifications for original appointment shall be immediately vacated. ~~No~~
38 ~~member of the board shall be appointed to serve more than two full terms.~~

39 (b) The residential contractor division shall consist of eight members and, except as
40 otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the
41 practice of the two subcategories of residential contracting, residential-basic contractors
42 and residential-light commercial contractors. Six members shall be residential contractors
43 licensed under this chapter. At least two of the residential contractor members shall be

44 licensed as residential-light commercial contractors; at least two shall be licensed as
45 residential-basic contractors; one shall be a licensed residential contractor whose business
46 predominantly involves remodeling projects; one shall be a licensed residential contractor
47 who constructs at least an average of 20 residences per year; and all ~~must~~ shall be
48 geographically diverse. One member shall ~~be~~ have experience as a public building official
49 and one member shall be a public member. The public member shall have no ties with the
50 residential construction industry and shall represent the interests of the public at large. The
51 member terms on the residential contractor division shall be staggered so that all terms do
52 not expire simultaneously. The residential contractor division shall meet at least once
53 every two months for the purpose of transacting such business as may properly come
54 before it.

55 (c) The commercial general contractor division shall consist of seven members and, except
56 as otherwise expressly stated in this chapter, shall have jurisdiction of and authority over
57 the practice of commercial general contracting. Five members shall be commercial general
58 contractors licensed under this chapter. At least two of the commercial general contractor
59 members shall be small-volume builders with an annual contracting volume of less than
60 \$10 million and all of whom ~~must~~ shall be geographically diverse. One member shall be
61 a currently licensed or registered architect or engineer and one member shall ~~be~~ have
62 experience as a public building official. The initial member terms on the commercial
63 general contractor division shall be staggered so that all terms do not expire
64 simultaneously. The commercial general contractor division shall meet at least once every
65 two months for the purpose of transacting such business as may properly come before it."

66 **SECTION 2.**

67 Said chapter is further amended in Code Section 43-41-4, relating to chairperson and vice
68 chairperson, meetings and quorums, and assistance from professional licensing boards
69 division, by revising subsection (h) as follows:

70 "(h) The board shall not take action on any matter specifically delegated to and under the
71 authority and control of the one of its divisions unless ~~at least four~~ a majority of its
72 members from the affected division are present and participating in such action or
73 decision."

74 **SECTION 3.**

75 Said chapter is further amended by revising Code Section 43-41-6, relating to application and
76 appropriate fee, eligibility for licensure as residential-basic contractor, residential-light
77 commercial contractor, or commercial general contractor, examination of qualified
78 applicants, renewal of licenses, and continuing education requirements, as follows:

79 "43-41-6.

80 (a) Anyone seeking to be licensed as a residential contractor or as a commercial general
81 contractor in this state shall file an application on a form provided by the residential
82 contractor or commercial general contractor division, respectively, accompanied by an
83 application fee as provided by the board. Such an application may be submitted either by:

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

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

92 Additionally, all applicants ~~must submit to and~~ shall successfully pass an examination
93 ~~prepared by, prepared for, or~~ approved by the appropriate division, except where an
94 applicant is otherwise qualified for licensure and has satisfied the appropriate division
95 requirements and regulations for licensure pursuant to Code Section 43-41-8 exempting

96 such applicant from the examination requirement or where the applicant is an individual
97 acting as a qualifying agent for a business organization and has previously obtained and
98 maintained continuously a license issued by the appropriate division, either as an individual
99 doing business in his or her own name or doing business as an individual in a trade name
100 as a sole proprietor or as a qualifying agent for another business organization.

101 (b) A person shall be eligible for licensure as a residential-basic contractor by the
102 residential contractor division if the person:

103 (1) Is at least 21 years of age;

104 (2) Is of a good character and is otherwise qualified as to competency, ability, integrity,
105 and financial responsibility; and

106 (3) Has at least two years of proven verifiable experience ~~working as or in~~ under the
107 direct employment of a licensed residential contractor, predominantly in with a primary
108 focus on the residential-basic category, or other proven verifiable experience deemed that
109 the division deems to be substantially similar by the division; and in scope and nature,
110 including, but not limited to, experience performing activities, work, or services requiring
111 licensure under Chapter 14 of this title. Such experience shall be verified through an
112 affidavit, executed by the applicant's employer or such other person with knowledge of
113 such experience, attesting under oath that the applicant has such experience.

114 ~~(4) Has had significant responsibility for the successful performance and completion of~~
115 ~~at least two projects falling within the residential-basic category in the two years~~
116 ~~immediately preceding application.~~

117 (c) A person shall be eligible for licensure as a residential-light commercial contractor by
118 the residential-light commercial subdivision if the person:

119 (1) Is at least 21 years of age;

120 (2) Is of a good character and is otherwise qualified as to competency, ability, integrity,
121 and financial responsibility; and

122 (3) Meets eligibility requirements according to one of the following criteria:

123 (A) Has received a baccalaureate degree from an accredited four-year college or
124 university in the field of engineering, architecture, construction management, building
125 construction, or other field acceptable to the division ~~and has at least one year of proven~~
126 ~~experience working as or in the employment of a residential contractor, commercial~~
127 ~~general contractor, or other proven experience deemed substantially similar by the~~
128 ~~division;~~

129 (B) Has a combination, equaling at least four years in the aggregate, acceptable to the
130 ~~division~~ of academic credits from any accredited college-level courses in the field of
131 engineering, architecture, construction management, building construction, or other
132 field acceptable to the division and proven verifiable practical experience working as
133 or in the employment of a residential contractor, commercial general contractor, or
134 other proven verifiable experience ~~deemed that the division deems to be~~ substantially
135 similar ~~by the division equaling at least four years in the aggregate~~ in nature and in
136 scope, including, but not limited to, performing activities, work, or services requiring
137 licensure under Chapter 14 of this title. For purposes of this subparagraph, all
138 university, college, junior college, or community college-level courses shall be
139 considered accredited college-level courses and any experience shall be verified
140 through an affidavit, executed by the applicant's employer or such other person with
141 knowledge of such experience, attesting under oath that the applicant has such
142 experience; or

143 (C) Has a total of at least four years of proven verifiable active experience working in
144 a construction industry related field, at least two of which shall have been as or in the
145 employment of a residential contractor, or other proven verifiable experience deemed
146 acceptable by the division. Such experience shall be verified through an affidavit,
147 executed by the applicant's employer or such other person with knowledge of such
148 experience, attesting under oath that the applicant has such experience; ~~and~~

149 ~~(4) Has had significant responsibility for the successful performance and completion of~~
150 ~~at least two projects falling within the residence-light commercial category in the four~~
151 ~~years immediately preceding application.~~

152 (d) A person shall be eligible for licensure as a commercial general contractor by the
153 commercial general contractor division if the person:

154 (1) Is at least 21 years of age;

155 (2) Is of a good character and is otherwise qualified as to competency, ability, integrity,
156 and financial responsibility; and

157 (3) Meets eligibility requirements according to one of the following criteria:

158 (A) Has received a baccalaureate degree from an accredited four-year college or
159 university in the field of engineering, architecture, construction management, building
160 construction, or other field acceptable to the division ~~and has at least one year of proven~~
161 ~~experience working as or in the employment of a commercial general contractor or~~
162 ~~other proven experience deemed substantially similar by the division;~~

163 (B) Has a combination, equaling at least four years in the aggregate, acceptable to the
164 division of academic credits from any accredited college-level courses in the field of
165 engineering, architecture, construction management, building construction, or other
166 field acceptable to the division and proven verifiable practical experience working as
167 or in the employment of a commercial general contractor or other proven verifiable
168 experience deemed that the division deems to be substantially similar by the division
169 equaling at least four years in the aggregate in nature and in scope, including, but not
170 limited to, performing activities, work, or services requiring licensure under Chapter
171 14 of this title. For purposes of this subparagraph, all university, college, junior
172 college, or community college-level courses shall be considered accredited
173 college-level courses and any experience shall be verified through an affidavit,
174 executed by the applicant's employer or such other person with knowledge of such
175 experience, attesting under oath that the applicant has such experience; or

176 (C) Has a total of at least four years of proven active experience working in a
177 construction industry related field, at least two of which shall have been as or in the
178 employment of a commercial general contractor, or other proven experience deemed
179 acceptable by the division and at least one of which shall have been in or relating to
180 administration, marketing, accounting, estimating, drafting, engineering, supervision,
181 or project management, or functions deemed substantially similar by the division. Such
182 experience shall be verified through an affidavit, executed by the applicant's employer
183 or such other person with knowledge of such experience, attesting under oath that the
184 applicant has such experience.

185 (e)(1) Before ~~being entitled to take an examination or otherwise qualify~~ qualifying for
186 issuance of a license, an applicant ~~must~~ shall show to the satisfaction of the residential
187 contractor division or commercial general contractor division from the application and
188 proofs furnished that the applicant is possessed of a good character and is otherwise
189 qualified as to competency, ability, and integrity. The application shall include a list of
190 all persons, entities, and business organizations that the applicant will be affiliated with
191 as a licensed residential contractor or commercial general contractor, whether by way of
192 employment, ownership, serving as an owner or director, partnership, or membership or
193 by serving as a qualifying agent under this chapter. All applicants shall also provide their
194 social security numbers, if applying as an individual, or the federal taxpayer identification
195 numbers of any business organization for which the applicant is seeking licensure as a
196 qualifying agent. Applicants for a commercial general contractor's license shall also
197 provide suitable verification of tax payments in a form and manner and for the duration
198 prescribed by the commercial general contractor division; provided, however, that, where
199 the application is seeking license as a qualifying agent of a business organization, such
200 tax verification and information shall relate and pertain to that business organization.

201 (2) Before qualifying for issuance of a license, ~~but not before being entitled to take an~~
202 ~~examination,~~ an applicant ~~must~~ shall show to the satisfaction of the appropriate division

203 that the applicant is qualified as to financial responsibility. Applicants for a commercial
204 general contractor license shall provide proof of a minimum net worth in an amount
205 specified by the commercial general contractor division. All applicants shall provide
206 proof of general liability insurance in an amount specified by the appropriate division and
207 proof of workers' compensation insurance as required by the laws of this state. If the
208 applicant is submitted as a person seeking to act as a qualifying agent of a business
209 organization, then such proof shall pertain to that business organization rather than the
210 individual applicant, subject to the limitations set forth in Code Section 43-41-9. A
211 certificate by the insurer or other appropriate evidence of insurance coverages shall be
212 maintained with the appropriate division and shall be a condition of renewal.

213 (3) The decision of the appropriate division as to the qualifications of applicants shall,
214 in the absence of fraud or willful or wanton misconduct, be conclusive.

215 (4) A licensee, on his or her own behalf or where acting as a qualifying agent on behalf
216 of the business organization so qualified, ~~must~~ shall notify the appropriate division in
217 writing within 30 days of any changes in the information required to be on file with such
218 division, including, but not limited to, the licensee's and, if the licensee is acting as a
219 qualifying agent for any business organization, such business organization's current
220 mailing address, insurance coverages, and affiliated entities.

221 (f)(1) The residential contractor division and the commercial general contractor division
222 shall each ~~conduct or cause to be conducted an~~ approve an appropriate examination of
223 which all ~~qualified~~ applicants, except those exempted from the examination requirement
224 pursuant to Code Section 43-41-8, shall pass in order to be eligible for licensure under
225 this chapter.

226 (2) The residential contractor division shall ~~conduct or cause to be conducted~~ approve
227 separate examinations for applicants for residential-basic and residential-light commercial
228 licenses for the purpose of determining a particular applicant's ability to make a practical
229 application of his or her knowledge of the profession of residential contracting in the

230 particular subcategory for which a license is sought; the applicant's qualifications in
231 reading plans and specifications; his or her knowledge of building codes, estimating
232 costs, construction, ethics, contracting, and other similar matters pertaining to such
233 residential contracting business; his or her knowledge as to the responsibilities of a
234 residential contractor to the public and to owners, subcontractors, and suppliers; and his
235 or her knowledge of the requirements of the laws of this state relating to residential-basic
236 and residential-light commercial contractors, construction, workers' compensation,
237 insurance, and liens.

238 (3) The commercial general contractor division shall ~~conduct or cause to be conducted~~
239 approve an examination to ascertain the particular applicant's ability to make a practical
240 application of his or her knowledge of the profession of commercial general contracting;
241 the applicant's qualifications in reading plans and specifications; his or her knowledge of
242 building codes, estimating costs, construction, ethics, contracting, and other similar
243 matters pertaining to the commercial general contracting business; his or her knowledge
244 as to the responsibilities of a commercial general contractor to the public and to owners,
245 subcontractors, and suppliers; and his or her knowledge of the requirements of the laws
246 of this state relating to commercial general contractors, construction, workers'
247 compensation, insurance, surety bonding, and liens.

248 (4) If the results of the applicant's examination are satisfactory to the appropriate
249 division, or he or she is exempted from the examination requirement ~~under~~ pursuant to
250 Code Section 43-41-8, and if he or she and any affiliated business organization has met
251 the other qualifications and requirements set forth in this Code section, then the
252 appropriate division shall issue to the applicant a license to engage in business as a
253 residential or commercial general contractor in this state, as provided in such license, in
254 his or her own name as a sole proprietor or as a qualifying agent for the affiliated
255 business organization and in the name of such business organization, pursuant to and in
256 accordance with the requirements set forth in Code Section 43-41-9. A residential

257 contracting license shall indicate for which of the two subcategories, residential-basic or
258 residential-light commercial, the licensee is qualified.

259 (g) Any otherwise qualified applicant failing ~~this~~ any examination required under this
260 Code section may be reexamined at any regularly scheduled examination ~~within one year~~
261 ~~of the date of original application upon payment of a reexamination fee, in an amount to~~
262 ~~be set by the board;~~ without need to resubmit an application, unless any information set
263 forth in the previously submitted application is no longer accurate or complete. ~~Anyone~~
264 ~~requesting to take the examination a fourth or subsequent time shall wait at least one~~
265 ~~calendar year after the date of original application and shall submit an application with the~~
266 ~~appropriate examination fees.~~

267 (h) A residential contractor license, indicating whether relating to the residential-basic or
268 residential-light commercial category, or commercial general contractor license shall be
269 issued to an applicant who successfully completes the respective requirements therefor
270 upon the payment of fees prescribed by the board.

271 (i) Such licenses shall be renewable biennially. Licenses may be renewed subsequent to
272 their expiration within six months of the date of expiration by submitting a renewal as
273 prescribed by the board and paying a late renewal fee as determined by the board. After
274 six months ~~has~~ have elapsed from the date of expiration, such license may be reinstated in
275 accordance with the rules and regulations of the board.

276 (j) The division director shall give advance notice to each person holding a license under
277 this chapter of the date of the expiration of the certificate of registration and the amount of
278 the fee required for renewal at least one month prior to the expiration date, but the failure
279 to receive such notice shall not avoid the expiration of any license not renewed in
280 accordance with this Code section.

281 (k) As a condition of renewal, the appropriate division may require licensees to complete
282 division approved continuing education of not more than three hours annually for a

283 residential-basic contractor license, six hours annually for a residential-light commercial
284 contractor license, and eight hours annually for a commercial general contractor license."

285 **SECTION 4.**

286 Said chapter is further amended in Code Section 43-41-16, relating to grounds for revocation
287 of license, authorized action by division in event of wrongdoing, interest and penalties, and
288 continuing education as requirement for resumption of standing, by revising subsection (a)
289 as follows:

290 "(a) The board shall have the authority to refuse to grant a license to an applicant or to
291 revoke the license of a person licensed by the board or to discipline a person licensed by
292 the board upon a finding by a majority of the board that the applicant or licensee has
293 committed any of the following acts:

294 (1) Obtaining a license by fraud or misrepresentation or otherwise knowingly giving
295 false or forged evidence to the board or its divisions;

296 (2) Being convicted or found guilty of or entering a plea of guilty or nolo contendere to
297 a criminal act constituting a felony in any jurisdiction which directly relates to the
298 practice of residential or commercial general contracting or the ability to practice
299 contracting;

300 (3) Performing any act which assists a person or entity in the prohibited unlicensed
301 practice of contracting if the licensee knows or has reasonable grounds to know that the
302 person or entity is unlicensed;

303 (4) Knowingly combining or conspiring with an unlicensed person by allowing his or her
304 license to be used with the intent to evade the provisions of this chapter. When an
305 individual license holder allows his or her license to be used to qualify one or more
306 business organizations, including where such qualifying agent for a person engaged in
307 general contracting does not actually possess and exercise the power and authority
308 required of a qualifying agent under ~~paragraph (7) of Code Section 43-41-2 and Code~~

- 309 ~~Section~~ Code Sections 43-41-2 and 43-41-9, such act constitutes prima-facie evidence of
310 an intent to evade the provisions of this chapter;
- 311 (5) Failing in any material respect to comply with the provisions of this chapter or
312 violating a rule, regulation, or lawful order of the board or its divisions;
- 313 (6) Abandoning a construction project in which the contractor who is the individual
314 license holder or a business organization for whom the license holder is a qualifying
315 agent is engaged or under contract as a residential or commercial general contractor. A
316 project may be presumed abandoned after 90 days if the contractor has ceased work on
317 or terminated performance on the project without just cause and without proper
318 notification to the owner, including the reason for the termination, cessation, or
319 abandonment;
- 320 (7) Signing a statement with respect to a project or contract falsely indicating that the
321 work is bonded; knowingly and falsely indicating by written statement issued to the
322 owner that payment has been made for all subcontracted work, labor, and materials and
323 for all materials furnished and installed which statement is reasonably relied upon and
324 actually results in a financial loss to the owner; or falsely indicating that workers'
325 compensation and general liability insurance are provided;
- 326 (8) Committing fraud or deceit in the practice of contracting, including falsely
327 advertising, representing, or holding himself or herself or an affiliated business
328 organization out as having a valid and current license under this chapter;
- 329 (9) Committing gross negligence, repeated or persistent negligence, or negligence
330 resulting in a significant danger to life or property;
- 331 (10) Proceeding on any job without obtaining applicable local building permits and
332 inspections;
- 333 (11) Using or attempting to use a license that has expired or has been suspended or
334 revoked;

- 335 (12) Knowingly or intentionally engaging any subcontractor to perform work within the
336 scope of the general or residential construction contract which requires a license under
337 Chapter 14 of this title who does not possess a current and valid license for such work;
338 or
- 339 (13) Failing to satisfy within a reasonable time the terms of a final civil judgment
340 obtained against the licensee or the business organization qualified by the licensee
341 relating to the practice of the licensee's profession; or
- 342 (14) Knowingly entering into a contractual arrangement, whether oral or written, for or
343 otherwise permitting the use of his or her license issued under this chapter by an
344 individual who is not licensed in accordance with this chapter or by a business entity that
345 has not been authorized under the provisions of this chapter to lawfully engage in
346 contracting or perform the functions of a contractor."

347

SECTION 5.

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