

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 41. RESIDENTIAL AND GENERAL CONTRACTORS

§ 43-41-1. Legislative findings

It is the intent of the General Assembly, in the interest of public health, safety, and welfare, to safeguard homeowners, other property owners, tenants, and the general public against faulty, inadequate, inefficient, and unsafe residential and general contractors. The practice of residential and general contracting is declared to be a business or profession affecting the public interest and this chapter shall be liberally construed so as to accomplish the intent and purposes stated in this Code section.

HISTORY: Code 1981, § 43-41-1, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-2. Definitions

As used in this chapter, the term:

(1) "Board" means the State Licensing Board for Residential and General Contractors.

(2) "Business organization" means any partnership, corporation, limited liability entity, business trust, joint venture, or other legal entity, other than an individual person, doing business or seeking, offering, or contracting to do business as a contractor or otherwise performing or acting as a contractor as defined in this Code section.

(3) "Contracting" means performing or causing to be performed any of the activities set forth in paragraphs (4), (5), (9), (10), and (11) of this Code section which define the types of contractors. The offering of contracting services and the negotiation of or bid or proposal for engagement or a contract requiring performance of these services also constitutes contracting.

(4) "Contractor," except as specifically exempted by this chapter, means a person who is qualified under this chapter and who, for compensation, contracts to, offers to undertake or undertakes to, submits a bid or a proposal to, or personally or by others performs the construction or the management of the construction of improvements to real property for an owner, including the construction or improvement of, addition to, or the repair, alteration, remodeling, or demolition of any building, bridge, or other structure, including related improvements to the real property, for use by the owner or by others or for resale to others. The term "contractor" for purposes of this chapter shall include a person who contracts to, undertakes to, or submits a bid or proposal to perform, or otherwise does himself or herself perform, for an owner:

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

construction; and

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

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

(5) "General contractor" means a contractor whose services are unlimited as to the type of work which he or she may do and who may contract for, undertake to perform, submit a bid or a proposal or otherwise offer to perform, and perform any activity or work as a contractor requiring licensure under this chapter including within its scope any work requiring licensure under Chapter 14 of this title; provided, however, that any work contractually undertaken by a general contractor in the nature of electrical contracting, plumbing, conditioned air contracting, low voltage contracting, or utility contracting which falls within the licensing requirements of Chapter 14 of this title may not be performed by the general contractor but shall only be performed by a person who is duly licensed to perform such work under Chapter 14 of this title. The construction of all private, commercial, institutional, industrial, public, and other buildings and structures under contract with or engagement directly by an owner shall be undertaken by a general contractor, except as otherwise expressly set forth in or excluded from operation of this chapter.

(6) An "owner" of real property means a person or entity that has a majority ownership interest in the real property to be improved and for whom an improvement is made or who contracts with or engages, directly or through an agent, the contractor to perform the construction work or services.

(7) "Qualifying agent" means a person who possesses the requisite skill, knowledge, and experience and has the responsibility to supervise, direct, manage, and control all of the contracting activities of a contractor doing business in the form of a business organization, with which he or she is affiliated by employment or ownership; who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he or she has obtained the building permit; and whose technical and personal qualifications have been determined by investigation and examination as provided in this chapter, as attested by the division.

(8) "Real property" means the real estate, or an interest therein, that is improved, including leaseholds, tenements, and easements, and improvements constructed or placed

thereon.

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

(10) "Residential-basic contractor" means and encompasses a person who performs contractor work or activity relative to detached one-family and two-family residences and one-family townhouses not over three stories in height and their accessory buildings and structures;

(11) "Residential-light commercial contractor" means and encompasses a person who performs any contractor work or activity performed by a residential-basic contractor and, additionally, shall include such contractor work or activity related to multifamily and multiuse light commercial buildings and structures, and their related accessory buildings and structures, which are less than four stories in height; less than 25,000 square feet in aggregate interior floor space, except as otherwise provided in this chapter; and are constructed of wood or light gauge metal frame, brick veneer, prefabricated, or manufactured type of construction; or are preengineered steel buildings not exceeding 50,000 square feet of interior floor space; provided that such buildings or structures are not of the type of building or structure that would constitute a special hazard to property or to life and safety of persons as defined in subparagraphs (A), (C), (D), (E), (F), (G), (G.1), (H), (I), and (J) and subparagraph (B), as it applies to a building of four or more stories, of paragraph (1) of subsection (b) of Code Section 25-2-13.

(12) "Specialty contractor" means a contractor whose scope of work and responsibility is of limited scope dealing with only a specific trade and directly related and ancillary work and whose performance is limited to such specialty construction work requiring special skill and requiring specialized building trades or crafts, including, but not limited to, such activities, work, or services requiring licensure under Chapter 14 of this title.

HISTORY: Code 1981, § 43-41-2, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-3. Creation of State Licensing Board for Residential and General Contractors; membership; divisions; vacancies; qualifications; terms; meetings

(a) There is created the State Licensing Board for Residential and General Contractors consisting of 14 members appointed by the Governor for five-year terms. The board shall be assigned to the Secretary of State's office for administrative purposes and shall be under the jurisdiction of the division director and shall operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable. The board shall be comprised of two divisions: the residential contractor division, having jurisdiction of and authority over the two subcategories of residential contracting, residential-basic contractors and residential-light commercial contractors, and the general contractor division. Seven members shall be appointed and serve as members of the residential contractor division of the board and seven members shall be appointed and serve as members of the general contractor division of the board. Members shall serve until the expiration of their respective terms and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment of the Governor for the remainder of the unexpired term and such replacement shall meet the requirements and criteria of selection of the person previously holding the vacant position. To be eligible to serve on the respective divisions of the board, each contractor member shall be and remain actively involved in the construction contracting business and shall have been so engaged for a period of not less than five consecutive years before the date of appointment in the particular contracting business, as a residential contractor or general contractor, corresponding to the division for which such person is appointed. Any contractor members whose term continues after or who are appointed to terms commencing two years from the date that this chapter becomes effective must also have been licensed and certified by the respective division of the board to operate as a contractor in the category to which the member is appointed. The position of any appointive member of the board who, during his or her term of appointment, shall cease to meet the qualifications for original appointment shall be immediately vacated. No member of the board shall be appointed to serve more than two full terms.

(b) The residential contractor division shall consist of seven members and, except as otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the practice of the two subcategories of residential contracting, residential-basic contractors and residential-light commercial contractors. Five members shall be residential contractors eligible for licensure under this chapter. Effective July 1, 2007, all residential contractor members shall be required to be licensed under this chapter. At least two of the residential contractor members shall be qualified to perform residential-light commercial type projects; three shall be qualified and shall predominantly perform residential-basic type projects; one shall be a residential contractor whose business predominately involves remodeling projects; one shall be a residential contractor who constructs at least an average of 20 residences per year; and all must be geographically diverse. One member shall be a public building official and one member shall be a public member. The public member shall have no ties with the residential construction industry and shall represent

the interests of the public at large. The initial member terms on the residential contractor division shall be staggered so that all terms do not expire simultaneously. Three members shall serve initial terms of five years, three members shall serve initial terms of four years, and one member shall serve an initial term of three years. The residential contractor division shall meet at least six times each year for the purpose of transacting such business as may properly come before it.

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

HISTORY: Code 1981, § 43-41-3, enacted by Ga. L. 2004, p. 786, § 1; Ga. L. 2005, p. 1179, § 1/SB 124.

§ 43-41-4. Appointment of members; chairperson; meetings and quorums; assistance from professional licensing boards division

(a) The initial members of the board shall be appointed no later than July 1, 2005. The board shall meet within 30 days after its appointment at a time and place to be designated by the Governor and organize by electing a chairperson and a vice chairperson, each to serve for a one-year term.

(b) The office of chairperson of the board shall be rotated between the two divisions enumerated in this chapter, with the office of vice chairperson to be held by a member of the division other than that in which the chairperson serves, unless the board, through its rules and regulations, provides otherwise. Any vacancy in the office of chairperson shall be filled by the members for the unexpired term. The person selected to fill the vacancy shall be a member of the same division as the chairperson whose departure has created the vacancy.

(c) The board shall meet at the call of the chairperson or upon the recommendation of a majority of its members. Eight members of the board, including at least three members from each of its divisions, shall constitute a quorum for transaction of business by the board.

(d) Each division within the board shall also elect from its membership a chairperson and

a vice chairperson who shall each serve for a term of two years. Any vacancy in the office of either the chairperson or vice chairperson shall be filled by one of the members of the respective division for the unexpired term.

(e) Any member elected chairperson of a division may not serve more than two consecutive full terms of office.

(f) Each division shall carry out its powers and duties as provided for in this chapter with the assistance of the division director and staff of the professional licensing boards division of the Secretary of State's office and the officers and staff of the board. Each division of the board shall operate and transact its business independently of the other division and of the board at large, except as required by this chapter and to the extent of common interests and functions, including staffing and administration. Each division of the board shall have delegated from the board the power and authority to take all appropriate actions in the organization and administration of each respective division and the effectuation and implementation of the licensing and enforcement processes required under this chapter, subject to ultimate oversight and review by the board.

(g) The divisions of the board shall meet at the call of the chairperson of the division.

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

(i) The division director, or his or her designee, shall keep a record of the proceedings of the board and its respective divisions.

HISTORY: Code 1981, § 43-41-4, enacted by Ga. L. 2004, p. 786, § 1; Ga. L. 2005, p. 1179, § 2/SB 124.

§ 43-41-5. Board meetings; power of board and its divisions; investigations; immunity from liability; failure to appear at hearing; voluntary surrender of license; application; subpoenas

(a) The board shall meet at least twice each year for the purpose of transacting such business as may properly come before it and of overseeing the operation of its divisions.

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

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

(2) Provide by regulation for reciprocity with other states or territories of the United States in the licensing of residential and general contractors, provided that such other states have requirements substantially equal to the requirements in force in this state for

registration, licensure, or certification and that any such contractor holding a current and valid license, certificate, or registration from another state or territory seeking licensure by way of reciprocity shall demonstrate that such applicant meets, in the discretion of the respective division, the qualifications, requirements, and criteria set forth in Code Section 43-41-6, other than the requirement to take and pass an examination as set forth in subsection (d) of Code Section 43-41-6, and that such applicant is otherwise in compliance with all requirements of the State of Georgia for transaction of such business within this state; provided, further, that a similar privilege is offered to residents of this state by the other state or territory;

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

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

(5) Establish the policies and procedures for regulating the businesses of residential contracting and general contracting;

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

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

(c) Regarding the powers and authorities conferred by this Code section relative to the residential-light commercial contractor subcategory of the residential contractor classification under this chapter, due to the characteristics of such subcategory, such powers and authorities shall be delegated to and conferred upon, in the first instance, a combined and overlapping subdivision comprising four members of both of the divisions, two of whom shall be the residential-light commercial qualified members of the residential contractor division and two of whom shall be the small volume qualified members of the general contractor division, with neither division having sole oversight and control of such powers and authorities. The chairperson of such combined subdivision shall be rotated annually between the chairperson of the residential contractor division and the chairperson of the general contractor division, with the residential contractor chairperson initially serving as chairperson. The combined subdivision shall meet at the call of such chairperson. However, regarding the actual issuance of licenses under this chapter for residential-light commercial contracting and any powers and authorities relative to administration, oversight, control, or disciplinary action of persons issued such licenses, pursuant to Code Sections 43-41-10, 43-41-11, 43-41-13, 43-41-15, and 43-41-16, the residential contractor division shall have full power and authority. Any determinations made or actions taken by this subdivision shall be subject to the ultimate review, oversight, control, power, and authority of the board.

(d)(1) The division director is authorized to make, or cause to be made through employees or contract agents of the board, such investigations as he or she or the board may deem necessary or proper for the enforcement of the provisions of this chapter. Any person properly conducting an investigation on behalf of the board shall have access to

and may examine any writing, document, or other material relating to the fitness of any licensee or applicant. The division director or his or her appointed representative may issue subpoenas to compel such access upon a determination that reasonable grounds exist for the belief that a violation of this chapter or any other law relating to the practice of residential or general contracting may have taken place.

(2) The results of all investigations initiated by the board shall be reported solely to the board, and the records of such investigations shall be kept for the board by the division director, with the board retaining the right to have access at any time to such records. No part of any such records shall be released, except to the board, for any purpose other than a hearing before the board, nor shall such records be subject to subpoena; provided, however, that the board shall be authorized to release such records to another enforcement agency or lawful licensing authority.

(3) The board shall have the authority to exclude all persons during its deliberations on disciplinary proceedings and to discuss any disciplinary matter in private with a licensee or applicant and the legal counsel of that licensee or applicant.

(e) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee or applicant which violate the provisions of this chapter or any other provision of law relating to a licensee's or applicant's fitness to practice as a licensed residential or general contractor or for initiating or conducting proceedings against such licensee or applicant, if such report is made or action is taken in good faith, without fraud or malice.

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

(g) If any licensee or applicant fails to appear at any hearing after reasonable notice, the board may proceed to hear the evidence against such licensee or applicant and take action as if such licensee or applicant had been present. A notice of hearing, initial or recommended decision, or final decision of the board in a disciplinary proceeding shall be served upon the licensee or applicant by certified mail or statutory overnight delivery, return receipt requested, to the last known address of record with the board. If such material is returned marked "unclaimed" or "refused" or is otherwise undeliverable and if the licensee or applicant cannot, after diligent effort, be located, the division director shall be deemed to be the agent for service for such licensee or applicant for purposes of this Code section, and service upon the division director shall be deemed to be service upon the licensee or applicant.

(h) The voluntary surrender of a license shall have the same effect as a revocation of the

license, subject to reinstatement in the discretion of the board.

(i) This Code section shall apply equally to all licensees or applicants whether individuals, partners, or members of any other incorporated or unincorporated associations, corporations, business organizations, or other associations of any kind whatsoever.

(j) All subpoenas issued pursuant to the authority granted in this chapter shall be subject to the general rules of law with respect to distance, tender of fees and expenses, and protective orders; and any motion made with respect thereto shall be made to and passed on by a judge of the superior court of the county of residence of the person to whom the subpoena is directed.

HISTORY: Code 1981, § 43-41-5, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-6. Application and appropriate fee; eligibility for licensure as residential-basic contractor, residential-light commercial contractor, general contractor; examination of qualified applicants; renewal of licenses; continuing education requirements

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

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

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

Additionally, all applicants must submit to and successfully pass an examination prepared by the appropriate division, except where an applicant is otherwise qualified for licensure and has satisfied the appropriate division requirements and regulations for licensure pursuant to Code Section 43-41-8 exempting such applicant from the examination requirement or where the applicant is an individual acting as a qualifying agent for a business organization and has previously obtained and maintained continuously a license issued by the appropriate division.

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

(1) Is at least 21 years of age;

(2) Is of a good character and is otherwise qualified as to competency, ability, and

integrity;

(3) Has at least two years of proven experience working as or in the employment of a residential contractor, predominantly in the residential-basic category, or other proven experience deemed substantially similar by the division; and

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

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

(1) Is at least 21 years of age;

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

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

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

(B) Has a combination acceptable to the division of academic credits from any accredited college-level courses and proven practical experience working as or in the employment of a residential contractor, general contractor, or other proven experience deemed substantially similar by the division equaling at least four years in the aggregate. For purposes of this subparagraph, all university, college, junior college, or community college-level courses shall be considered accredited college-level courses; or

(C) Has a total of at least four years of proven active experience working in a construction industry related field, at least two of which shall have been as or in the employment of a residential contractor, or other proven experience deemed acceptable by the division; and

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

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

(1) Is at least 21 years of age;

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

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

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

(B) Has a combination acceptable to the division of academic credits from any accredited college-level courses and proven practical experience working as or in the employment of a general contractor or other proven experience deemed substantially similar by the division equaling at least four years in the aggregate. For purposes of this subparagraph, all university, college, junior college, or community college-level courses shall be considered accredited college-level courses; or

(C) Has a total of at least four years of proven active experience working in a construction industry related field, at least two of which shall have been as or in the employment of a general contractor, or other proven experience deemed acceptable by the division and at least one of which shall have been in or relating to administration, marketing, accounting, estimating, drafting, engineering, supervision, or project management, or functions deemed substantially similar by the division.

(e) Before being entitled to take an examination or otherwise qualify for issuance of a license, an applicant must show to the satisfaction of the residential contractor division or general contractor division from the application and proofs furnished that the applicant is possessed of a good character and is otherwise qualified as to competency, ability, integrity, and financial responsibility. The application shall include a list of all persons, entities, and business organizations that the applicant will be affiliated with as a licensed residential contractor or general contractor, whether by way of employment, ownership, serving as an owner or director, partnership, or membership or by serving as a qualifying agent under this chapter. Applicants for a general contractor license shall provide proof of a minimum net worth in an amount which is specified by the general contractor division. Additionally, all applicants shall provide proof of general liability insurance and of workers' compensation insurance as required by the laws of this state in their name. However, if and to the extent the applicant is submitted as a person seeking to act as a qualifying agent of a particular business organization, such proofs and information shall relate and pertain to such business organization rather than the individual applicant, subject to the limitations set forth in subsection (d) of Code Section 43-41-9. All applicants shall also provide their social security numbers, if applying as an individual, or the federal taxpayer identification numbers of any business organization for which the applicant is seeking licensure as a qualifying agent. Applicants for a general contractor's license shall also provide suitable verification of tax payments in a form and manner and

for the duration prescribed by the general contractor division; provided, however, that where the application is seeking license as a qualifying agent of a business organization, such tax verification and information shall relate and pertain to that business organization. The decision of the appropriate division as to the qualifications of applicants shall, in the absence of fraud, be conclusive. A certificate by the insurer or other appropriate evidence of such coverages shall be maintained with the appropriate division and shall be a condition of renewal. A licensee, on his or her own behalf or where acting as a qualifying agent on behalf of the business organization so qualified, must notify the appropriate division in writing within 30 days of any changes in the information required to be on file with such division, including, but not limited to, the licensee's and, if the licensee is acting as a qualifying agent for any business organization, such business organization's current mailing address, insurance coverages, and affiliated entities.

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

(2) The residential contractor division shall conduct separate examinations for applicants for residential-basic and residential-light commercial licenses for the purpose of determining a particular applicant's ability to make a practical application of his or her knowledge of the profession of residential contracting in the particular subcategory for which a license is sought; the applicant's qualifications in reading plans and specifications; his or her knowledge of building codes, estimating costs, construction, ethics, contracting, and other similar matters pertaining to such residential contracting business; his or her knowledge as to the responsibilities of a residential contractor to the public and to owners, subcontractors, and suppliers; and his or her knowledge of the requirements of the laws of this state relating to residential-basic and residential light-commercial contractors, construction, workers' compensation, insurance, and liens.

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

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

name of such business organization, pursuant to and in accordance with the requirements set forth in Code Section 43-41-9. A residential contracting license shall indicate for which of the two subcategories, residential-basic or residential-light commercial, the licensee is qualified.

(g) Any otherwise qualified applicant failing this examination may be reexamined at any regularly scheduled examination within one year of the date of original application upon payment of a reexamination fee, in an amount to be set by the board, without need to resubmit an application, unless any information set forth in the previously submitted application is no longer accurate or complete. Anyone requesting to take the examination a third or subsequent time shall wait at least one calendar year after the taking of the last examination and shall submit an application with the appropriate examination fees.

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

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

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

(k) As a condition of renewal, the appropriate division may require licensees to complete division approved continuing education of not more than three hours annually for a residential-basic license, six hours annually for a residential-light commercial license, and eight hours annually for a general contractor license.

HISTORY: Code 1981, § 43-41-6, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-7. Written warranties required

A licensed residential contractor and any affiliated entities shall offer a written warranty in connection with each contract to construct, or superintend or manage the construction of, any single family residence where the total value of the work or activity or the compensation to be received by the contractor for such activity or work exceeds \$2,500.00. The residential contractor division shall establish the minimum requirements of such warranty. The parties to the warranty may agree to submit any or all disputes arising under the warranty to arbitration. Such agreement to arbitrate shall be enforceable as provided in Part 1 of Article 1 of Chapter 9 of Title 9, the "Georgia Arbitration Code."

HISTORY: Code 1981, § 43-41-7, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-8. Eligibility for licensure without examination; reciprocity; burden upon applicant

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

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

(2) Any person who has successfully and efficiently engaged in the comparable category of residential or general contracting in this state as provided in this Code section; provided, however, that such person shall be either a resident and citizen of the state of Georgia or, if applying as a qualifying agent for a business organization, such business organization shall be either incorporated in Georgia or is a business organization otherwise authorized and certified to transact business in Georgia with a regular office and place of business in Georgia currently and having had such office and place of business continuously for the five years immediately preceding such application; provided, further, that such application and request for exemption is submitted within the time limits set forth in subsection (a) of Code Section 43-41-17. To prove that he or she has successfully engaged in residential-basic or residential-light commercial projects, the person shall be required to give evidence of three successful projects located in Georgia which were successfully completed over the period of five years immediately prior to the time of application; evidence of ten successfully completed residential-basic or residential-light commercial projects located in Georgia over the period of ten years immediately prior to the time of application; or evidence that he or she has participated in or been engaged in residential-basic or residential-light commercial construction in a supervisory or management capacity for seven of the ten years immediately prior to the time of application. To prove that he or she has successfully engaged in commercial

general contracting, the person submitting the application shall be required to give evidence of five successful general contracting projects located in Georgia which were successfully completed over the period of five years immediately prior to the time of application or evidence of ten successful general contracting projects located in Georgia which were successfully completed over the period of ten years immediately prior to the time of application, such projects having been performed either by such person acting as an individual or by a business organization in which such individual person was affiliated by employment or ownership and over which such person had general oversight and management responsibilities; and

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

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

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

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

(D) The applicant is otherwise in compliance with all requirements of this state for transaction of such business within this state; provided, however, that such application and request for exemption shall be submitted starting January 1, 2007, and continuing thereafter.

(b) Any applicant for issuance of a residential contractor or general contractor license under this title who shall seek exemption from the examination requirement under subsection (f) of Code Section 43-41-6, on any basis set forth above, shall have the burden of establishing to the satisfaction and within the discretion of the appropriate division that the requirements for such exemption have been satisfied. The decision of such division as to the satisfaction of the requirements for such exemption from taking the examination shall, in the absence of fraud, be conclusive.

HISTORY: Code 1981, § 43-41-8, enacted by Ga. L. 2004, p. 786, § 1; Ga. L. 2006, p. 272, § 1/ HB 1542.

§ 43-41-9. Licensing of individuals and organizations; joint ventures treated uniquely; notification to division of changes; separation of sole qualifying agent; disciplinary actions taken against organizations; payment of fees; joint responsibility for work product

(a) If an individual applicant proposes to engage in residential or general contracting in the individual's own name or a trade name where the individual is doing business as a sole proprietorship, the license shall be issued only to that individual. Where an applicant under this chapter is seeking issuance of a residential or general contractor license on behalf and for the benefit of a business organization seeking to engage in residential or general contracting as a business organization, or in any name other than the applicant's legal name or trade name where the applicant is doing business as a sole proprietorship, the application for a license under this chapter must be submitted by and through an individual qualifying agent for such business organization or entity and expressly on behalf of such business organization or entity. In such case, the license shall be issued to the individual qualifying agent and to the affiliated business organization or entity on whose behalf the application was made. It shall be unlawful for any person, firm, corporation, or association to operate a business organization or entity engaged in the business of residential or general contracting without first obtaining a license from the appropriate division. The appropriate division shall not issue a license to any business organization or entity to engage in residential or general contracting unless such business organization or entity employs at least one currently licensed residential or general contractor who is actually engaged in the practice of residential or general contracting for such business organization or entity on a full-time basis and provides adequate supervision and is responsible for the projects of such business organization or entity. A business organization may allow more than one person to act as a qualifying agent for such organization, subject to each such individual qualifying agent having successfully satisfied the requirements for issuance of a license under this chapter and having obtained issuance of such a license by the appropriate division. Each such business organization shall have at least one qualifying agent in order to be considered authorized to engage in such contracting business.

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

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

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

(2) By each of the members of the joint venture doing business as a residential contractor or general contractor holding, as an individual or as a business organization

acting through its qualifying agent, a valid and current residential or general contractor's license issued by the appropriate division.

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

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

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

(2) The qualifying agent shall inform the division having jurisdiction in writing when he or she proposes to engage in contracting in his or her own name or in affiliation with another business organization, and he or she or such new business organization shall supply the same information to the division as required of applicants under this chapter. Such person shall be deemed to be a licensed residential or general contractor for the original term of his or her license, provided that he or she qualified for such license based on his or her own personal qualifications as to financial responsibility and insurance.

Otherwise, such individual shall be required to submit a new application demonstrating satisfaction of such financial and insurance requirements himself or herself or by the business organization he or she desires to qualify, but such person shall be entitled to continue engaging in the business of residential or general contracting in accordance with and under his or her previously issued license unless and until the appropriate division determines that the person seeking issuance of the license no longer meets these requirements.

(3) Upon a favorable determination by the division having jurisdiction, after investigation of the financial responsibility, if applicable, and insurance of the qualifying agent and the new business organization, the division shall issue, without an examination, a new license in the name of the qualifying agent and in the name of the new affiliated business organization.

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

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

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

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

HISTORY: Code 1981, § 43-41-9, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-10. Reprimand, revocation, or other corrective actions authorized; issuance of stop-work orders; adoption of rules and regulations; lifting of suspension

(a) In addition to the powers and authorities conferred upon the board and its divisions pursuant to Chapter 1 of this title, the residential contractor division and the general contractor division shall have the power, respectively, to reprimand any person or licensee, or to suspend, revoke, or refuse to grant, renew, or restore a license to any person or licensee if such person or licensee is found by the appropriate division to have engaged in any fraud or deceit in obtaining a license or otherwise to have engaged in gross negligence, repeated or persistent incompetence, intentional misconduct in the practice of his or her profession, or willful violation of any provisions of this chapter.

(b) For purposes of this Code section, a person or business organization operating on an expired, revoked, lapsed, or suspended license shall be considered unlicensed.

(c) The separate divisions may issue a stop-work order for all unlicensed work falling within their respective jurisdictions upon finding probable cause to believe that construction work which requires a license under this chapter is being performed by a person without such a current, valid license. Such an order may be enforced by injunctive relief, cease and desist orders, or other related actions within the power and authority of the board and its respective divisions.

(d) The division having jurisdiction shall investigate and sanction any license holder found to have engaged in fraud, deceit, gross negligence, repeated or persistent incompetence, or intentional misconduct in the practice of residential or general contracting; and sanctions shall be assessed against any such residential or general contractor licensed under this chapter either individually or as a business organization acting through a qualifying agent. Such charges, unless dismissed without hearing by the division as unfounded, shall be heard and determined by that division in accordance with the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(e) The divisions shall each adopt and publish rules and regulations, consistent with the provisions of this chapter, governing the suspension and revocation of licenses.

(f) Each division may reissue a license to any person whose license has been revoked or lift a suspension of a license to such person provided that four or more members of the division vote in favor of such reissuance or lifting for reasons that division deems sufficient.

HISTORY: Code 1981, § 43-41-10, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-11. Effects of licensure

The issuance of a license by the residential contractor or the general contractor division shall be evidence that the person named therein, including both the individual licensee

and any business organization for whom such licensee is a qualifying agent, is entitled to all the rights and privileges of a licensed residential or general contractor while such license remains unrevoked or unexpired.

HISTORY: Code 1981, § 43-41-11, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-12. Penalty for violating provisions; architect or engineer utilizing nonlicensed personnel

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

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

(2) Falsely represents, advertises, or holds himself or herself or an affiliated business organization out as a residential contractor or general contractor licensee;

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

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

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

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

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

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

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

HISTORY: Code 1981, § 43-41-12, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-13. Issuance of restraining order and injunction to restrain against further violations

Whenever it appears to the board or either division of the board that any person, whether an individual or a business organization, or both, is violating any of the provisions of this chapter or of the rules and regulations of the board or either division promulgated under this chapter, the board or division may apply to the superior court of the county in which such individual resides or business is located for a restraining order and injunction to restrain the violation, and the superior court shall have jurisdiction to grant the requested relief, irrespective of whether criminal prosecution has been instituted or administrative sanctions have been imposed by reason of the violation.

HISTORY: Code 1981, § 43-41-13, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-14. Role of building inspectors; penalty for noncompliance with chapter

Any person, whether an individual or a business organization acting through a qualifying agent, intending to perform work as a residential or general contractor, upon making application to the building inspector or such other authority of any incorporated municipality or county in this state charged with the duty of issuing building or other permits for contemplated construction work requiring performance by either a licensed residential contractor or a licensed general contractor shall, before being entitled to the issuance of such permit, furnish to such inspector or authority, personally or through his or her authorized agent specifically designated to act on his or her behalf in a sworn written document submitted contemporaneously or previously submitted and maintained by such inspector or authority, his or her residential contractor or general contractor license number and the identity of any business organization for which such applicant is serving as qualifying agent that is undertaking or contracting as a residential contractor or a general contractor to construct or manage the construction. It shall be unlawful for any such building inspector or other authority to issue or allow the issuance of such building permit unless the applicant has furnished his or her residential contractor or general contractor license number and the identity of any such business organization relative to performance of the work for which a permit has been applied. A building inspector or other authority shall issue such building permit under the terms of this Code section to any person, including an individual licensee acting on his or her own behalf or a licensee acting as a qualifying agent for a business organization and such business organization, upon evidence reasonably establishing that such person is duly licensed as a residential or general contractor under this chapter, either individually or as a business organization acting under a duly licensed qualifying agent. Any building inspector or other such authority that issues a building permit to a person known by such building inspector or authority not to be properly licensed under this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$500.00.

HISTORY: Code 1981, § 43-41-14, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-15. Death of contractor; notifications; completion of work

If an incomplete contract exists at the time of death of a residential or general contractor, where the licensed contractor performing the work under such contract is an individual person and not a business organization acting through a qualifying agent for such organization, the contract may be completed by any person affiliated with the contractor as a co-owner, partner, employee, relative, heir, successor, or assign, even though not licensed under this chapter, subject to the terms of this Code section. Such person shall notify the appropriate division of the board within 30 days after the death of such contractor of such death and of his or her name and address, knowledge of the contract, and ability technically and financially to complete it. Such person may continue with performance of the contract pending approval by the division. If the division approves, he or she may proceed with the contract to completion. If the division does not approve completion by such person, due to a determination that he or she does not have sufficient knowledge, expertise, or financial or other required resources, the division shall give prompt written notice to the person, including the reasons for such rejection, and such person shall promptly upon receipt of such notice cease further performance of the contract. If the owner engages another person under a new contract to complete the remaining work under the original contract, such other party must be a contractor duly licensed under this chapter to perform such work. For purposes of this Code section, an incomplete contract is one which has been awarded to or entered into by the contractor before his or her death or on which he or she was the low bidder and the contract is subsequently awarded to him or her, regardless of whether any actual work has commenced under the contract before the contractor's death. If an incomplete contract exists at the time of death of a sole qualifying agent of a residential contractor or a general contractor, where the contractor is a business organization licensed only under such individual as its qualifying agent, then the contractor shall proceed as provided under paragraph (1) of subsection (e) of Code Section 43-41-9.

HISTORY: Code 1981, § 43-41-15, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-16. Grounds for revocation of license; authorized action by division in event of wrongdoing; interest and penalties; continuing education as requirement for resumption of standing

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

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

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

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

(4) Knowingly combining or conspiring with an unlicensed person by allowing his or her license to be used with the intent to evade the provisions of this chapter. When an individual license holder allows his or her license to be used to qualify one or more business organizations, including where such qualifying agent for a person engaged in general contracting does not actually possess and exercise the power and authority required of a qualifying agent under paragraph (7) of Code Section 43-41-2 and Code Section 43-41-9, such act constitutes prima-facie evidence of an intent to evade the provisions of this chapter;

(5) Failing in any material respect to comply with the provisions of this chapter or violating a rule, regulation, or lawful order of the board or its divisions;

(6) Abandoning a construction project in which the contractor who is the individual license holder or a business organization for whom the license holder is a qualifying agent is engaged or under contract as a residential or general contractor. A project may be presumed abandoned after 90 days if the contractor has ceased work on or terminated performance on the project without just cause and without proper notification to the owner, including the reason for the termination, cessation, or abandonment;

(7) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; knowingly and falsely indicating by written statement issued to the owner that payment has been made for all subcontracted work, labor, and materials and for all materials furnished and installed which statement is reasonably relied upon and actually results in a financial loss to the owner; or falsely indicating that workers' compensation and general liability insurance are provided;

(8) Committing fraud or deceit in the practice of contracting, including falsely advertising, representing, or holding himself or herself or an affiliated business organization out as having a valid and current license under this chapter;

(9) Committing gross negligence, repeated or persistent negligence, or negligence resulting in a significant danger to life or property;

(10) Proceeding on any job without obtaining applicable local building permits and inspections;

(11) Using or attempting to use a license that has expired or has been suspended or revoked;

(12) Knowingly or intentionally engaging any subcontractor to perform work within the scope of the general or residential construction contract which requires a license under Chapter 14 of this title who does not possess a current and valid license for such work; or

(13) Failing to satisfy within a reasonable time the terms of a final civil judgment obtained against the licensee or the business organization qualified by the licensee relating to the practice of the licensee's profession.

(b) The appropriate division may take any one or more of the following actions against any license holder found by the division to have committed any one or more of the acts listed in subsection (a) of this Code section:

(1) Place the license holder on probation or reprimand the license holder;

(2) Revoke a license, including the license of a person as an individual as well as that of a qualifying agent of a business organization together with the interest of the business organization qualified thereby in such license; suspend such a license for a stated period of time not exceeding one year; or deny the issuance or renewal of the license;

(3) Require financial restitution to a consumer for financial harm directly related to a violation of a provision of this chapter;

(4) Impose an administrative fine not to exceed \$5,000.00 for each violation;

(5) Require continuing education; or

(6) Assess costs associated with the investigation and prosecution.

(c) In determining penalties in any final order of the board or a division, the board or division shall follow the penalty guidelines established by the board's or division's rules and regulations.

(d) The board or a division may assess interest or penalties on all fines imposed under this chapter against any person or business organization which has not paid the imposed fine by the due date established by rule, regulation, or final order.

(e) If the board or a division finds any contractor has violated the provisions of this chapter, the board or division may as a part of its disciplinary action require such contractor to obtain continuing education in the areas of contracting affected by such violation.

HISTORY: Code 1981, § 43-41-16, enacted by Ga. L. 2004, p. 786, § 1.

§ 43-41-17. Effective date of licensing and sanctioning provisions; unenforceable contracts; compliance with county or municipal requirements; exemption for DOT contractors; other exceptions

(a) The licensing requirements imposed by this chapter and the sanctions and consequences relating thereto shall not become effective and enforceable until January 1, 2008. On and after such date, no person, whether an individual or a business

organization, shall have the right to engage in the business of residential contracting or general contracting without a current, valid residential contractor license or general contractor license, respectively, issued by the division under this chapter or, in the case of a business organization, unless such business organization shall have a qualifying agent as provided in this chapter holding such a current, valid residential contractor or general contractor license on behalf of such organization issued to such qualifying agent as provided in this chapter. Notwithstanding the foregoing, persons seeking licensure under this chapter and exemption from examination under paragraphs (1) and (2) of subsection (a) of Code Section 43-41-8 shall submit their applications, including all necessary proof of the basis of exemption from examination for such license, starting January 1, 2006. The period for submission of such applications and requests for exemption from the examination requirements shall extend thereafter for a period of 12 months. Furthermore, notwithstanding the foregoing, any person seeking licensure under this chapter and exemption from examination under paragraph (3) of subsection (a) of Code Section 43-41-8 may submit his or her application, including all necessary proof of the basis of such exemption starting January 1, 2007, and continuing thereafter.

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

(c) Any person who holds a license issued under this chapter may engage in the business of residential or general contracting, but only as prescribed by the license, throughout the state and no municipality or county may require any such person licensed under this chapter to comply with any additional licensing requirements imposed by such municipality or county relative to the performance of construction work subject to the licensing requirements under this chapter. However, nothing in this chapter shall preclude the implementation and enforcement by any municipality or county of a local rule, regulation, ordinance, order, or other requirement in effect and operation as of July 1, 2004, that requires a person to obtain a locally issued license, registration, or certification

in order to:

(1) Engage in the construction of improvements to real property to the extent such activities are not encompassed by this chapter or by Chapter 14 of this title; or

(2) Engage in residential or general contracting within such jurisdiction; provided, however, that:

(A) The requirements and criteria for issuance of such local license, registration, or certification shall have been at least as strict and stringent, in the sole judgment of the board, as those for the issuance of a corresponding state-wide license issued under this chapter;

(B) Such local license, registration, or certification shall only apply to activities performed within the geographical limits of such municipality or county; and

(C) Such requirement shall not prevent or foreclose any contractor not holding such local license, registration, or certification but holding a valid and current state-wide license issued under this chapter or Chapter 14 of this title from the transaction of contracting business in such local jurisdiction within the scope of his or her state-wide license.

(d) Any person qualified by the Department of Transportation to perform construction work on roads, streets, bridges, highways, sidewalks, or other grading, paving, or repaving projects; airport runways or taxiways; or railroads, and services incidental thereto, for the department shall not be required to be licensed under this chapter in order to perform any such work for the department or for any other owner requiring similar work to be performed. The general contractor division of the board, in agreement with the Department of Transportation, shall, by rule, define 'services incidental thereto' for the purposes of this subsection only and shall likewise define any other necessary terms as to the scope of the exemption provided by this subsection.

(e) Nothing in this chapter shall prevent any person holding a valid license issued by the State Construction Industry Licensing Board, or any division thereof, pursuant to Chapter 14 of this title from performing any work defined in the Code sections under which the license held by said person was issued. Furthermore, nothing in this chapter shall preclude a person licensed under Chapter 14 of this title to perform plumbing, conditioned air contracting, utility contracting, electrical contracting, or low-voltage contracting from offering to perform, performing, engaging in, or contracting to engage in the performance of construction work or services directly with an owner, which work or services would otherwise require a general contractor license under this chapter, where the total scope of the work to be performed is predominantly of the type for which such contractor is duly licensed to perform under Chapter 14 of this title such that any other work involved is incidental to and an integral part of the work performed within the scope of such license under said chapter and does not exceed the greater of \$10,000.00 or 25 percent of the total value at the time of contracting of the work to be performed;

provided, however, that such contractor may not delegate or assign the responsibility to directly supervise and manage the performance of such other work to a person unless such person is licensed under this chapter and the work being performed by such person is within the scope of that person's license.

(f) Nothing in this chapter shall preclude a specialty contractor from offering or contracting to perform or undertaking or performing for an owner limited, specialty, or specific trade contractor work, which does not entail the delegation or assignment to or engagement of any other person or entity, other than direct employees, to supervise, manage, or oversee the performance of any portion of the work undertaken. However, nothing in this chapter shall permit a specialty contractor to perform work falling within the licensing requirements of Chapter 14 of this title where such specialty contractor is not duly licensed under such chapter to perform such work.

(g) Nothing in this chapter shall preclude a person from offering or contracting to perform or undertaking or performing for an owner repair work, provided that the person performing the repair work discloses to the owner that such person does not hold a license under this chapter and provided, further, that such work does not affect the structural integrity of the real property. The board shall by rule or regulation further define the term "repair" as used in this subsection and any other necessary terms as to the scope of this exemption.

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

(i) Nothing in this chapter shall preclude an architect licensed pursuant to Chapter 4 of this title or an engineer registered pursuant to Chapter 15 of this title from performing work or providing services within the scope of his or her registration for the practice of architecture or license for practicing engineering.

(j) Nothing in this chapter shall preclude an architect licensed pursuant to Chapter 4 of this title or an engineer licensed pursuant to Chapter 15 of this title from offering to perform or offering or rendering design-build services to an owner; provided, however, that such offer or contract shall clearly indicate at the time of such offer or contract that all services of a general contractor incident to the design-build performance shall be performed by a duly licensed general contractor in compliance with other provisions of this chapter and that all services so offered or provided falling within the scope of the licensing requirements of this chapter are offered and rendered by a licensed general contractor in accordance with this chapter.

(k) Nothing in this chapter shall apply to the construction, alteration, or repair of buildings classified as an agricultural occupancy or that are used for agricultural storage or agricultural purposes.

(l) A contractor licensed under this chapter shall not be required to list on the face of a bid or proposal envelope the license number of any contractor licensed under Chapter 14 of this title that may or will be engaged to perform any work within the licensing requirements of Chapter 14 of this title which comprises part of the work for which such bid or proposal is submitted.

(m) Dams, including both earth dams and concrete dams, designed for electrical generation, water storage, or any other purpose may be constructed by either a general contractor licensed under this chapter or by a utility contractor licensed pursuant to Chapter 14 of this title.

HISTORY: Code 1981, § 43-41-17, enacted by Ga. L. 2004, p. 786, § 1; Ga. L. 2005, p. 1179, § 3/SB 124; Ga. L. 2006, p. 272, § 2/HB 1542.

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