

Georgia Branch, AGC's
Summary of the Provisions to the New General and Residential Contractor Licensure Law
OCGA 43-41-1 through 43-41-17

43-41-1 (Intent)

Interest of public health, safety & welfare of Georgians.

43-41-2 (Definitions)

- Contractor (§ 4): Anyone engaged in construction or construction management as a prime contractor for an owner or lessor of real property, including "at-risk" construction management and design-build construction,
- General Contracting (§ 5): An unlimited category of any prime contract construction work by a contractor, including all commercial, industrial and public works and construction management and design-build, including all work encompassed by the two residential contracting activities. However, included work requiring a license under 43-14 must be done under subcontract by appropriately licensed electrical, plumbing, mechanical, utility or low voltage contractor.
- Residential-Basic (§ 9 and 10): One and two family residences and one family townhouses not over three stories in height for work over \$2,500.00
- Residential-Light Commercial (§ 9 and 11): Includes all within the "residential-basic" category plus multifamily, multiuse or commercial buildings up to 25,000 sq. ft aggregate interior floor space, not more than 3 stories in height, constructed of wood frame or light gauge metal frame, brick veneer, prefabricated, or manufactured type construction, and pre-engineered metal buildings up to 50,000, sq. ft., all subject to specified Life Safety code exceptions.
- Specialty Contractor (§ 12): Work is of limited scope, only dealing with specific trade requiring special skill and requiring specialized building trades or crafts.

43-41-3 (Joint Residential and General Contractors Board)

Establishes and empowers board, at large, and respective divisions, comprising 14 members appointed by the Governor, serving five year terms.

- Residential Division: Comprised of 7 members (5 contractors (2 of whom must be light commercial contractors), 1 a public member, and 1 a public building official)
- General Contractor Division: Comprised of 7 members (5 General contractors (two of whom shall be small volume, less than \$ 5,000,000 annually, contractors), and 1 an architect or engineer and 1 a public building official).

43-41-4 (Board Governance)

Chairmanship of Board at large shall rotate between the residential and general contractor divisions

- Prescribes authorities and processes of board and divisions.

43-41-5 (Board Authority)

- Develop rules and regulations for practice, including provisions and rules for licensing by 'reciprocity' with other states
- Provides provisions and processes for joint (residential & general contractor) division control and oversight to develop rules and regulations for governance of Residential Light-Commercial license category and requirements for qualification.

43-41-6 (Eligibility/Experience Requirements for Practice)

- Prescribes mode of licensing applicants depending upon whether they are individuals seeking license only in their own name or are business organizations and individuals acting as "qualifying agents" for such business organizations seeking issuance of license in name of individual and business organization (see 43-41-9, below)
- Residential Basic: At least 21 years of age, qualified as to competency, ability, and integrity, proven relevant work experience, general liability insurance, workers compensation insurance, social security number if applying as individual, federal tax ID number if qualifying as business, continuing education of not more than 3 hours annually.
- Residential-Light Commercial: At least 21 years of age, qualified as to competency, ability, and integrity, proven relevant work experience or formal education, or combination of both, general liability insurance, workers

compensation insurance, social security number if applying as individual, federal tax ID number, if qualifying as business, continuing education of not more than 6 hours annually.

- **General Contractor:** At least 21 years of age, qualified as to competency, ability, and integrity, proven relevant work experience or formal education, or combination of both, minimum net worth, general liability insurance, workers compensation insurance, social security number if applying as individual, federal tax ID number, if qualifying as business, verification of tax payments, continuing education of not more than 8 hours annually.
- **Examination:** to extent not exempted (see Section 43-41-8, below), passage of examination corresponding to type of license sought, to be prepared and administered by respective divisions

43-41-7 (Residential Warranty & Arbitration Provisions)

Written warranties shall be offered on all residential contracting over \$2,500.00. The residential division shall establish the minimum requirements of the warranty. Parties may agree to submit all disputes arising from the warranty to arbitration.

43-41-8 (Provisions for Reciprocity & Grandfathering- Exam Only)

All businesses (both individuals and "business organizations" e.g. corporations) seeking licensure under this Chapter shall meet the eligibility requirements for practice, submit application and pay the appropriate fees as set by the respective divisions of the board of the specific category of license sought. However, the following persons shall not be required to take the competency exam in order to practice:

- Any person that holds a local license issued within the state of Georgia, in which the process for licensure is substantially similar to the Georgia state law requirement. ("Intra-state reciprocity).
- Any person doing business as a Georgia contractor (i.e. Georgia residents, Georgia business organizations, or non-Georgia businesses with established and proper Georgia presence) with a demonstrated successful track record of building in the state of Georgia. ("Grandfathering" (only allowed for an initial limited period of time))
- Individuals who are licensed in other states that provide for reciprocity with Georgia, in which the process for licensure is substantially similar to the Georgia state law requirement and mutually available to Georgia licensed contractors seeking licensure in such state. ("Interstate" reciprocity)
- Any applicant who 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 (See 43-41-6(a)(2)).

43-41-9 (Provisions for Sole Proprietor/Qualifying Agent for Business)

Individuals can qualify as sole proprietors based on individual assets and criteria.

- Individuals can qualify a business organization (as its qualifying agent) based upon resources of company, but the individual takes the exam.
- If an individual is qualifying a company, the company will be issued a license as well.
- A business organization may elect to have more than one qualifying agent, all of whom are equally responsible under this chapter for their own conduct and for conduct of business organization.
- Disciplinary actions and sanctions may be administered against a business in the same manner as against individual qualifiers.

43-41-10 (Board Authority on Discipline)

The board or divisions shall have the authority and power to enforce license requirements and to sanction license holders (individuals and business organizations) and unlicensed activity.

43-41-11 (Rights & Privileges of License Holders)

All contractors licensed under the provisions of this chapter shall enjoy the rights and privileges of this chapter.

43-41-12 (Penalties for Violation of this Chapter)

Individuals licensed under this Chapter are subject to misdemeanor criminal prosecution and penalty for a number of infractions. Architects and Engineers are also subject to prosecution and penalty for knowingly recommending an unlicensed individual who is subject to license under this Chapter.

43-41-13 (Restraining Order/Injunction by Superior Court)

The board or divisions may apply to the Superior court for restraining orders or injunctions against violators of this chapter.

43-41-14 (Proof license Required for Issuance of Building Permits)

Individuals licensed under this Chapter shall provide proof of license before being issued building permits. Building officials that knowingly issue permits to unlicensed contractors are subject to prosecution and penalty.

43-41-15 (Death of Contractor- Provisions to Complete Contract)

Allows contracts that are already underway to be completed if contractor unexpectedly passes, subject to board or division approval.

43-41-16 (Violations & Penalties of this Chapter)

- Violations include: fraud, unlicensed practice, violation of rules, abandoning project, negligence, operating without building permits or inspections.
- Penalties include: revocation of license, probation, restitution, fines, continuing education.

43-41-17 (Time line for enactment/Exemption from this Chapter)

- Time line for enactment/compliance
- Contracts after enactment by unlicensed contractors are void
- No local restrictions on individuals licensed under this Chapter
(Amendment - However, local jurisdictions that have license requirements in place as of July 1, 2004 that are as stringent as state requirement may only continue to license locally. Local government cannot restrict practice of a contractor licensed under this chapter within the scope of the statewide license.)
- Exemption for DOT prequalified contractors
- Licensed subcontractors under 43-14 may bid as prime for work outside their scope if it does not exceed 25% of total project cost.
- Specialty Contractor exemption- Specialty Contractors that are not licensed under 43-14 that perform a limited scope of work tied to that trade or specialty (ex; roofing, painting, dry wall etc...) shall not be required to be licensed as residential or general contractors.
- Repair work that does not impact the structural integrity of the project, shall not require the services of a licensed residential or general contractor.
- Owner exemption- Owners may build their own home or facilities provided they do not build and sell more than one property within a 24-month period.
- Architect/Engineer – Nothing in this Chapter shall prevent a licensed architect or engineer from providing services within their scope of practice.
- Architect/Engineer Design Build Services- Nothing in this Chapter shall prevent an Architect or Engineer from offering and providing design services associated with a design build contract.
- Agricultural Building Exemption – The construction of a building classified as agricultural occupancy or agricultural storage shall not require a license under this Chapter.
- Contractors licensee under this Chapter who contract with licensed subcontractors shall not be required to list subcontractors at time of bid.
- Either general contractor or utility contractors may undertake the construction of "Dams."

This law became effective July 1, 2005 and is enforceable as a condition of doing business in Georgia on July 1, 2008.