

# STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS

October 3, 2018

## Open Session Minutes

The State Licensing Board for Residential and General Contractors met on Wednesday, October 3, 2018 for the purpose of conducting Board business.

### **Members present:**

#### **Residential Division**

Timothy Andrew “Andy” Cooper, Division Chairman  
Ted Noe, Division Vice Chairman via Teleconference  
William “Bill” Lewis Duck, Jr  
Robert “Bobby” Joseph Cleveland, Jr. via Teleconference  
Jarrett McIntosh via Teleconference  
Keely Meredith Nesmith Fennell via Teleconference

### **Members absent**

#### **Residential Division**

None

#### **General Division**

Patrick “Tony” A. Pellicano – Board Chairman and GC Division  
Chairman  
Morgan Wheeler  
Timothy F. Ansley  
Eugene “Gene” Cox Dunwoody, Jr.  
Stanley Aaron McWhorter  
David Moody – via teleconference

#### **General Division**

None

### **Administrative Staff Present:**

Deborah Beard, Executive Director  
TiAndria Burke , Board Support Specialist  
Ken English, Licensing Supervisor  
Laura Fremont , Licensure Analyst  
Maximillian Changus, Assistant Attorney General

### **Visitor**

Amy Covington

### **Call Meeting to Order:**

At 9:00 a.m., Board Chairman, Pellicano, established that a quorum was present and called the meeting to order.

### **Public Rules Hearing**

There were no written comment submissions regarding the proposed rules received in thirty days of posting for public view and comment. There were no oral presentations given at the hearing.

The Executive Director Beard informed the Board that before voting on the rule the Board has to consider the economic impact. The State Licensing Board for Residential and General Contractors motions that the formulation and adoption of this does not imposes excessive regulatory cost on any the licensee or entity and any cost to comply with the proposed Rule cannot be reduced by a less expensive alternative that fully accomplishes the objective of O.C.G.A. § 43-41-5, and the State Board for Residential and General Contractors motions that it is not legal or feasible to meet the objectives of O.C.G.A. § 43-41-5 to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a) (3) (A), (B), (C) and (D). The formulation and adoption of this proposed new rule will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of residential and general contracting.

A motion was made by Cooper, seconded by Ansley and the Board voted to accept the economic impact language as read by Deborah Beard, Executive Director.

Chairman Pellicano read the purpose of the rule to the Board.

**Rule 553-4-.05. Licensure Requirements for an Individual to Practice as a General Contractor in the Individual's Own Name or Doing Business as an Individual in a Trade Name or as a Sole Proprietorship - General Contractor Limited Tier.**

- (1) An individual person seeking issuance of a Georgia license in his or her own name for purposes of engaging in the profession of general contracting at the general contracting limited tier in his or her own name or doing business as an individual in a trade name as a sole proprietorship shall file an application on a form provided by the general contractor division, accompanied by an application fee as provided by the board.
- (2) Additionally, such applicants must submit to and successfully pass an examination approved by the general contractor division unless exempted from examination pursuant to O.C.G.A. § 43-41-8.
- (3) A person shall be eligible for licensure as a general contractor limited tier by the general contractor division if the person:
  - (a) Is at least 21 years of age;
  - (b) Is of a good character and is otherwise qualified as to competency, ability, and integrity, and financial responsibility; and
  - (c) Meets eligibility requirements according to one of the following criteria:
    1. 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;
    2. 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
    3. 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.
- (d) In order to satisfactorily prove (a), (b) and (c) above, each applicant must swear on the application for licensure that the applicant satisfies each requirement and submit satisfactory proof of such when directed to do so by the application. Applicants seeking to engage in limited tier general contracting shall affirm a minimum net worth in the amount of \$25,000. Additionally, in completing the application and submitting it to the general contractor division, the applicant consents to the division performing a background check, including a criminal history, on the applicant if the division so chooses.
- (4) Before being entitled to take an examination or otherwise qualify for issuance of a license, an applicant must show to the satisfaction of the 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. Much proof of this will come as detailed in (3)(d) above. Additionally, the application shall include a list of all persons, entities, and business organizations that the applicant will be affiliated with as a licensed 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. Additionally, all applicants shall provide satisfactory proof of general liability insurance in an amount not less than \$500,000 and of workers' compensation insurance as required by the laws of this state in their name. All applicants shall also provide their social security numbers. Applicants shall also provide suitable verification of tax payments in a form and manner and for the duration prescribed by the general contractor division. Such proof of verification shall be submitted by the applicant as directed by the application for licensure and any form(s) that might accompany the application. The decision of the general contractor division as to the qualifications of applicants shall be conclusive. A certificate by the insurer or other appropriate evidence of such coverages shall be maintained with the general contractor division and shall be a condition of renewal. A licensee, on his or her own behalf,

# STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS

October 3, 2018

## Open Session Minutes

must notify the general contractor 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 current mailing address, insurance coverages, and affiliated entities.

(5) The general contractor division shall cause to be conducted an examination of all qualified applicants, except those exempted from the examination requirement pursuant to Code Section 43-41-8.

(a) The general contractor division shall cause to be conducted 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.

(b) If the results of the applicant's examination are satisfactory to the general contractor division, or he or she is exempted from the examination requirement under Code Section 43-41-8, and if he or she has met the other qualifications and requirements set forth in this Code section, then the general contractor division shall issue to the applicant a limited tier license to engage in business as a general contractor in this state, as provided in such license, in his or her own name as a sole proprietor, pursuant to and in accordance with the requirements set forth in Code Section 43-41-9.

(6) 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.

(7) Upon the payment of fees prescribed by the board, a limited tier general contractor license shall be issued to an applicant who successfully completes the requirements for licensure.

(8) There is established a limited tier general contractor license type that is limited as to any contract of no more than ~~\$500,000.00~~ one million dollars (\$1,000,000.00).

(9) In order to move from the General Contractor Limited tier to the General Contractor tier, a contractor must submit an application for the General Contractor license and meet the financial requirements and other requirements for that license type.

(10) Any Change Orders as defined in O.C.G.A. § 36-91-2 may not exceed the maximum amount allowed per contract for a project to be completed.

**Authority: O.C.G.A. § 43-41-5**

A motion was made by Cooper, seconded by Ansley and the Board voted to adopt the above rule as presented. None opposed, motion carried.

The Executive Director, Deborah Beard informed the Board they would need to consider the economic impact of Rule 553-4-.06. The State Licensing Board for Residential and General Contractors motions that the formulation and adoption of this does not imposes excessive regulatory cost on any the licensee or entity and any cost to comply with the proposed Rule cannot be reduced by a less expensive alternative that fully accomplishes the objective of O.C.G.A. § 43-41-5, and the State Board for Residential and General Contractors motions that it is not legal or feasible to meet the objectives of O.C.G.A. § 43-41-5 to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a) (3) (A), (B), (C) and (D). The formulation and adoption of this proposed new rule will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of residential and general contracting.

A motion was made by Cooper, seconded by Duck and the Board voted to accept the economic impact language as read by Deborah Beard, Executive Director.

Chairman Pellicano read the purpose of the rule to the Board.

**Rule 553-4-.06 Licensure Requirements for an Individual Acting as a Qualifying Agent for a Business Organization Seeking to Engage in the Profession of General Contracting in the Name of the Business Organization - General Contractor Limited Tier.**

(1) 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 general contracting at the general contracting limited tier in the name of the business organization in accordance with and pursuant to Code Section 43-41-9 shall file an application on a form provided by the general contractor division, accompanied by an application fee as provided by the board.

(2) Additionally, such applicants must submit to and successfully pass an examination approved by the general contractor division unless exempted from examination pursuant to O.C.G.A. § 43-41-8.

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

(a) Is at least 21 years of age;

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

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

1. 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;

2. 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

3. 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.

(d) In order to satisfactorily prove (a), (b) and (c) above, each applicant must swear on the application for licensure that the applicant satisfies each requirement and submit satisfactory proof of such when and where directed to do so by the application. Applicants acting as a qualifying agent for a business organization seeking to engage in limited tier general contracting, shall affirm that the business organization possesses minimum net worth in an amount of \$25,000.

Additionally, in completing the application and submitting it to the general contractor division, the applicant consents to the division performing a background check, including a criminal history, on the applicant if the division so chooses.

(4) Before being entitled to take an examination or otherwise qualify for issuance of a license, an applicant must show to the satisfaction of the 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. Much proof of this will come as detailed in (3)(d) above. Additionally, the application shall include a list of all persons, entities, and business organizations that the applicant will be affiliated with as a licensed 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. Additionally, all applicants shall provide satisfactory proof of general liability insurance in an amount not less than \$500,000 and of workers' compensation insurance as required by the laws of this state in their name. All applicants shall also provide the federal taxpayer identification numbers of any business

# STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS

October 3, 2018

## Open Session Minutes

organization for which the applicant is seeking licensure as a qualifying agent. Applicants shall also provide suitable verification of tax payments by the business organization in a form and manner and for the duration prescribed by the general contractor division. Such proof of verification shall be submitted by the applicant as directed by the application for licensure and any form(s) that might accompany the application. The decision of the general contractor division as to the qualifications of applicants shall be conclusive. A certificate by the insurer or other appropriate evidence of such coverages shall be maintained with the general contractor division and shall be a condition of renewal. A licensee, where acting as a qualifying agent on behalf of the business organization so qualified, must notify the general contractor 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 business organization's current mailing address, insurance coverages, and affiliated entities.

(5) The general contractor division shall cause to be conducted an examination of all qualified applicants, except those exempted from the examination requirement pursuant to Code Section 43-41-8.

(a) The general contractor division shall cause to be conducted 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.

(b) If the results of the applicant's examination are satisfactory to the general contractor 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 general contractor division shall issue to the applicant a limited tier license to engage in business as a general contractor in this state, as provided in such license, in his or her own name 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.

(6) 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.

(7) Upon the payment of fees prescribed by the board, a limited tier general contractor license shall be issued to an applicant who successfully completes the requirements for licensure.

(8) There is established a limited tier general contractor license type that is limited as to any contract of no more than ~~\$500,000.00~~ one million dollars (\$1,000,000.00).

(9) In order to move from the General Contractor Limited tier to the General Contractor tier, a contractor must submit an application for the General Contractor license and meet the financial requirements and other requirements for that license type.

(10) Any Change Orders as defined in O.C.G.A. § 36-91-2 may not exceed the maximum amount allowed per contract for a project to be completed.

### **Authority: O.C.G.A. § 43-41-5.**

A motion was made by Cooper, seconded by Dunwoody, Jr. and the Board voted to adopt the above rule as presented. None opposed, motion carried.

The rules hearing concluded at 9:25 a.m.

# STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS

October 3, 2018

## Open Session Minutes

### Open Session Minutes:

A motion was made by Wheeler, seconded by McIntosh, and the Board voted to approve the minutes of the August 15, 2018 meeting. None opposed, motion carried.

### Discussion of Rules

Beard discussed with the Board several of the Board rules which the Board has considered revising. Board Rule 553-10-.01, Board Rule 553-11-.01, and Board Rule 553-12-.06. Some draft languages was presented to the Board to open the discussion. Board Chairman, Pellicano discussed with the Board about the difference between inactivating licensees and disaffiliating licensees. Cooper stated that companies have 120 days grace period regardless of any situation. There was discussion as to whether those reinstating after five years should continue to be required to sit for the exam or not. There were some difference of opinions on the reinstatement rule, and the board would like to consider removing the exam requirement for reinstatement. However, this cannot be done until the rule has been changed. McWhorter stated he does not agree with paragraph 5 of the reinstatement rule. He mentions that once the licensee has taken and past the exam, he/she should not have to retest at any time. Noe agreed with McWhorter and stated he has a problem with asking licensee to retake the exam if he/she has already taken and passed once, regardless if he was grandfathered or has sat for the exam.

The Board also discussed how those who do not notify the Board of a disaffiliation from a company should be handled, especially if the person continues to renew the license and practice. Some of the proposed language for the board to consider included a rule for disaffiliation of qualifying agent, a new prior approval rule, revising the rule regarding changes in status and how the board handles inactive status. The Board would like to consider adding a penalty for those who don't notify the board when they disaffiliate from a company. The Board provided staff with what the changes they would like to see in the rules. Staff will make the revisions and bring the rules back to the Board at their next meeting.

The Board agreed that if a licensee requests to inactivate their license then they must keep up their continuing education.

### Approval of 2019 Board Meeting Dates

A motion was made by Cooper, seconded by McIntosh, and the Board voted to accept the following dates for the 2019 State Board for Residential and General Contractors Board Meetings as discussed. None opposed, motion carried

- January 16, 2019
- August 14, 2019

Beard briefly discussed the 2019 board meeting dates for the Residential Contractor Division and also for the General Contractor Division. The dates will be confirmed by each designated Division at their following meeting.

### Executive Director Report

The Executive Director, Deborah Beard, informed the State Licensing Board for Residential and General Contractors about the two day training that is offered at the PLB Division for all Board Members for the following dates of October 29, 2018 and October 30, 2018. The Board Members will be receiving an email with additional information. Deborah Beard also made the full board aware that the General Contractors Division has a new Board Member, Charles Garbutt, who will be sworn in by the Governor on October 9, 2018.

### Executive Session:

At 10:30 a.m. a motion was made by Duck, seconded by Morgan, the Board members present, voted to enter into Executive Session in accordance with O.C.G.A. §§ 43-1-2(k), 43-1-19(h), and 50-14-2(1). None opposed, motion carried.

At the conclusion of the Executive Session on Wednesday, October 3, 2018 Cooper declared the meeting to be "open" pursuant to the Open and Public Meeting Act, O.C.G.A. §§ 50-14-1 et seq. No votes were taken during executive session.

**STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS**

**October 3, 2018**

**Open Session Minutes**

**Executive Session Minutes:**

A motion was made by McIntosh, seconded by Moody, and the Board voted to approve the minutes of the August 15, 2018 meeting. None opposed, motion carried.

With no other business to discuss, the State Licensing Board for Residential and General Contractors meeting adjourned at 10:35 a.m. The next scheduled Board meeting will be held on Wednesday, January 16, 2018 at 9:00 a.m.

Minutes recorded by:

**TiAndria Burke**, Board Support Specialist

Minutes edited/reviewed by:

**Deborah Beard**, Executive Director

**PATRICK "TONY" A. PELLICANO**

**DEBORAH BEARD**

Board Chairman

Executive Director

These minutes were approved on: November 7, 2018.