

# STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS

January 30, 2019

## Open Session Minutes

The State Licensing Board for Residential and General Contractors met on Wednesday, January 30, 2019 at the Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia, for the purpose of conducting Board business.

### **Members present:**

#### **Residential Division**

Timothy Andrew "Andy" Cooper, Division Chairman  
William "Bill" Lewis Duck, Jr.  
Robert "Bobby" Joseph Cleveland, Jr.  
Jarrett McIntosh  
Ted Noe, Division Vice Chairman - 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  
Charles "Charlie" Garbutt  
Eugene "Gene" Cox Dunwoody, Jr.  
David Moody – via teleconference

#### **General Division**

Stanley Aaron McWhorter

### **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

### **Visitors**

John Crabtree  
Tim Shipske  
Frieda St. Germain  
Albert Singletary

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

At 9:13a.m., Board Chairman, Pellicano, established a quorum was present and called the meeting to order.

### **Public Rules Hearing:**

Pellicano, Board Chairman declared the public rules hearing open. The visitors were welcomed. Pellicano mentioned the rules have been posted and we are under the assumption everybody has gone to the posting and read the rules. The board is going to forego reading each rule, unless there is a specific request from anybody from the public. Pellicano asked if anybody would like to speak and if so then he would like to recognize them. He asked if they would stand and present themselves, give their name, and in the essence of time, identify the specific rule they would like to address. No one from the public had any comments for the Board. There were no oral presentations given at the hearing. There were no written comment submissions regarding the proposed rules received in thirty days of posting for public view and comment.

Pellicano informed every one of the requirement to read the economic impact of these rules and called on Deborah Beard, Executive Director to present the information. Beard explained the economic impact would have to be presented on each rule as each rule as has different law numbers. Beard identified Rule 553-4-.01 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.

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**Rule 553-4-.01 - 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**

**SYNOPSIS OF PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-4, QUALIFICATIONS FOR LICENSURE – GENERAL CONTRACTOR DIVISION, RULE 553-4-.01 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**

**Purpose:** The purpose of this rule amendment is to eliminate the current requirements for a general contractor applicant to submit a line of credit and letter from a certified public accountant in order to prove the minimum net worth and financial responsibility of the applicant. The rule amendment should simplify the process for an applicant to establish the necessary financial standing.

**Main Features:** The rule amendment eliminates the current requirements for a general contractor applicant to submit a line of credit and a letter form from a certified public accountant in order to prove the applicants net worth and financial responsibility. The rule will be amended to have the applicant seeking to engage in general contracting affirm a minimum net worth in the amount of \$150,000.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-4, QUALIFICATIONS FOR LICENSURE – GENERAL CONTRACTOR DIVISION, RULE 553-4-.01 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**

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

**Rule 553-4-.01 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.**

(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 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, except where an applicant is otherwise qualified for licensure and has satisfied the general contractor division requirements and regulations for licensure pursuant to Code Section 43-41-8 exempting such applicant from the examination requirement.

(3) A person shall be eligible for licensure as a general contractor 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

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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 seeking to engage in general contracting shall ~~provide satisfactory proof of~~ affirm a minimum net worth in the amount of \$150,000. ~~To satisfactorily show "financial responsibility" as mentioned in (3)(b) above, as well as minimum net worth, applicants shall provide a line of credit form in an amount not less than \$50,000. For additional proof of net worth and "financial responsibility", applicants must provide, together with and as directed by the application for licensure, an appropriate reference letter from a certified public accountant (CPA) wherein the CPA performs an audit, review, or compilation of the applicant's financial information. This reference letter will be on a form included with the application for licensure and must be notarized upon submission to the division.~~ 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.

~~(e) The line of credit requirement as detailed in (3)(d) above shall be suspended from the effective date of this amended rule until July 1, 2012.~~

(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, 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)(a) 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.

(b) 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.

(c) 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 license to

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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) A general contractor license shall be issued to an applicant who successfully completes the requirements therefore upon the payment of fees prescribed by the board.

Beard read the economic impact for Rule 553-4-.01 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. The formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-6(a),(d), (e) and 43-41-9. It is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-6(a), (d), (e) and 43-41-9 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 rule amendment 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 Dunwoody Jr., and the Board voted to accept the economic impact as read for Rule 553-4-.01.. None opposed, motion passed.

A motion was made by Cleveland, seconded by McIntosh, and the Board voted to adopt the amendments to Rule 553-4-.01 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 as posted. None opposed, motion carried.

**Rule 553-4-.02 Licensure Requirement 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**

**SYNOPSIS OF PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-4, QUALIFICATIONS FOR LICENSURE – GENERAL CONTRACTOR DIVISION, RULE 553-4-.02 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**

**Purpose:** The purpose of this rule amendment is to eliminate the current requirements for an applicant to submit a line of credit and letter from a certified public accountant in order to prove the minimum net worth and financial responsibility of the business organization. The rule amendment should simplify the process for an applicant to establish the necessary financial standing.

**Main Features:** The rule amendment eliminates the current requirements for a general contractor qualifying agent applicant to submit a line of credit and a letter form from a certified public accountant in order to prove the business organizations net worth and financial responsibility. The rule will be amended to have the applicant acting as a qualifying agent for a business organization seeking to engage in general contracting affirm that the business organization possesses a minimum net worth in the amount of \$150,000.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-4, QUALIFICATIONS FOR LICENSURE – GENERAL CONTRACTOR DIVISION, RULE 553-4-.02 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**

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

**Rule 553-4-.02 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.**

(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 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, except where an applicant is otherwise qualified for licensure and has satisfied the general contractor 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 general contractor division.

(3) A person shall be eligible for licensure as a general contractor 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 general contracting, shall ~~provide satisfactory proof~~ affirm that the business organization possesses a minimum net worth in an amount of \$150,000. ~~To satisfactorily show "financial responsibility" as mentioned in (3)(b) above, and minimum net worth, applicants shall provide a line of credit form in an amount of not less than \$50,000. For additional proof of net worth and "financial responsibility", applicants must provide, together with and as directed by the application for licensure, an appropriate reference letter from a certified public accountant (CPA) wherein the CPA performs an audit, review, or compilation of the applicant's financial information. This reference letter will be on a form included with the application for licensure and must be notarized upon submission to the division.~~ 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.

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~~(e) The line of credit requirement as detailed in (3)(d) above shall be suspended from the effective date of this amended rule until July 1, 2012.~~

(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 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) (a) 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.

(b) 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.

(c) 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 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) A general contractor license shall be issued to an applicant who successfully completes the requirements therefore upon the payment of fees prescribed by the board.

Beard read the economic impact for Rule 553-4-.02 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. The motion would be that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity, and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-6(a), (d), (e) and 43-41-9. Also include

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in the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-6(a), (d), (e) and 43-41-9 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 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 McIntosh, seconded by Noe, and the Board voted to accept the economic impact as read for Rule 553-4-.02. None opposed, motion passed.

A motion was made by Duck, seconded by Wheeler, and the Board voted to adopt the amendments to Rule 553-4-.02 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 as posted. None opposed, motion carried.

### Rule 553-10-.01 Inactive License

#### **SYNOPSIS OF PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-10, INACTIVE LICENSE, RULE 553-10-.01 INACTIVE LICENSE**

**Purpose:** The purpose of this rule amendment is to revise the rule name, revise the inactive status criteria, and add an inactive status for residential and general contractors who have disaffiliated from a company. The rule also amends the path for reactivation of licensure.

**Main Features:** The main features of the amended rule are the revised rule name, revised inactive status criteria, and the addition of an inactive status for residential and general contractors who have disaffiliated from a company. The rule also provides a path for reactivation of licensure for an inactive license, upon meeting specific criteria.

#### **DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-10, INACTIVE LICENSE, RULE 553-10-.01 INACTIVE LICENSE**

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

#### **Rule 553-10-.01 Inactive License Status.**

~~(1) A residential or general contractor who holds a valid residential or general contractor's license in the State of Georgia may request the license be placed on inactive status under the following provisions:~~

~~(a) Notifies the Board, in writing, that he or she chooses to retire from active practice of the profession. Said license shall be considered inactive.~~

~~(b) Shall not engage in contracting and shall not hold themselves out to the public as being available to provide contractor services.~~

~~(c) Shall not be required to obtain the necessary continuing education credits.~~

~~(d) Shall not be assessed a renewal fee for the period that the license is inactive.~~

~~(2) Contracting with an inactive license shall be considered unlicensed practice and is subject to disciplinary action.~~

~~(3) Should contractor holding an inactive license choose to return to active status, the following requirements must be met:~~

~~(a) Submit evidence of attendance of the required Board approved continuing education for each biennium that the license was inactive.~~

~~(b) Provide evidence that licensee is in good standing in all states in which he or she has ever been licensed. A reactivation fee as established by the board must be submitted with the application for reactivation.~~

~~(c) Submit proof of current general liability insurance and worker's compensation as required by law for the license type that is to be reinstated.~~

~~(d) Submit other proof of financial responsibility as is required for the license type that is to be reinstated.~~

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(4) After 5 years of continuous inactive status, the Board may, at its discretion require successful passing of the contractor examination in the contractor field for the license that the contractor wishes to reinstate.

(1) Inactive Status for licensees choosing to refrain or retire from active practice as a residential or general contractor: A residential or general contractor may request the license be placed on inactive status under the following provisions:

(a) Holds a valid residential or general contractor's license in the state of Georgia with a current expiration date.

(b) Notifies the Board that the licensee chooses to refrain or retire from active practice as a residential or general contractor by submitting an Inactive Status application, as established by the Board, along with the required fee.

(c) If the licensee is the sole qualifying agent for a business organization, the business organization shall have 120 days from the date of inactive status to submit an application to the Board for another Qualifying Agent, unless the respective Division receives other substantiated information that the company is no longer in business.

(d) Shall not engage in contracting and shall not hold themselves out to the public as being available to provide residential or general contractor services.

(e) Shall not be required to maintain continuing education credits.

(f) Shall not be assessed a renewal fee for the period that the license is inactive.

(2) Inactive Status for Qualifying Agent after disaffiliation from company: A license pertaining to a residential or general contractor who acts as a qualifying agent for a residential or general contractor company shall be placed on inactive status under the following provisions:

(a) Holds a valid residential or general contractor's license in the state of Georgia with a current expiration date.

(b) The licensee properly notifies the Board by submitting a Disaffiliation form, as established by the Board, that the licensee has disaffiliated from the company as required under O.C.G.A. § 43-41-9(e);

(c) The company properly notifies the Board by submitting a Disaffiliation form, that the licensee has disaffiliated from the company as required under O.C.G.A. § 43-41-9(e);

(d) The respective Division receives other substantiated information that the qualifying agent is no longer affiliated with the company; or

(e) The respective Division receives other substantiated information that the company is no longer in business.

(f) If the licensee is the sole qualifying agent for a business organization, the business organization shall have 120 days from the date of inactive status to submit an application to the Board for another Qualifying Agent, unless the respective Division receives other substantiated information that the company is no longer in business.

(3) Contracting with an inactive license shall be considered unlicensed practice and is subject to disciplinary action.

(4) If a residential or general contractor whose license has been placed on inactive status seeks to reactivate the inactive license, the licensee may be returned to active status if the following requirements are met:

(a) A reactivation application, as established by the Board, along with the required fee, must be submitted to the Board.

(b) Submit evidence of attendance of the required Board approved continuing education for each biennium that the license was inactive.

(c) Provide evidence that licensee is in good standing in all states in which he or she has ever been licensed.

(d) Submit proof of current general liability insurance and worker's compensation as required by law for the license type that is to be reactivated.

(e) Submit proof of financial responsibility as is required for the license type that is to be reactivated.

(f) Submit proof of active and compliant registration with the Georgia Corporations Division for the business organization as is required for the license type that is to be reactivated.

Beard read the economic impact for Rule 553-10-.01 Inactive License. The formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity, and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-5(a)(9), and 43-41-9(e). Also include in the motion that it is not legal or feasible to meet the objectives of O.C.G.A. § 43-41-5(a)(7), 43-41-5(a)(9), and 43-41-9(e) 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 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. Garbutt asked is this the amendment that allows an inactive licensee to become active without retaking the exam. Changus,

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Assistant Attorney General respond yes, it gets rid of the retaking the examination requirements. A motion was made by Wheeler, seconded by Garbutt, and the Board voted to accept the economic impact as read for Rule 553-10 .01.

A motion was made by Ansley, seconded by Dunwoody Jr., and the Board voted to adopt the amendments to Rule 553-10-.01 Inactive License as posted. None opposed, motion carried.

### Rule 553-11-.01 Changes in Status Which Must Be Reported

#### **SYNOPSIS OF PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-11, CHANGES IN STATUS, RULE 553-11-.01 CHANGES IN STATUS WHICH MUST BE REPORTED**

**Purpose:** The purpose of the rule amendment is to remove the change in Qualifying Agent affiliation and submission of prior approval application from this rule and revise the changes in status which are to be reported to the Board.

**Main Features:** The amended rule revises the rule by updating the changes in status which are to be reported to the Board, removes the notification of disaffiliation of the Qualifying Agent with a business organization, and removes the residential contractor submission of a prior approval application from this rule.

#### **DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-11, CHANGES IN STATUS, RULE 553-11-.01 CHANGES IN STATUS WHICH MUST BE REPORTED**

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

#### **Rule 553-11-.01 Changes in Status Which Must Be Reported.**

~~(1) A licensee shall report to the Board in writing the following occurrences:~~

~~a) A change in address or location.~~

~~1. A change in mailing address or physical location for the individual or Qualifying Agent must be made in writing or online within 30 days of the change.~~

~~2. A change in mailing address or physical location for the business organization must be made in writing or online within 45 days of the change.~~

~~3. If a duplicate pocket card is desired, a form available online must be submitted along with a fee.~~

~~(b) A change in the name of the business organization.~~

~~1. Notification must include evidence of the new name registered with the Secretary of State's office, if applicable.~~

~~2. If a duplicate pocket card is desired, a form available online must be submitted along with a fee.~~

~~3. This notification must occur within 45 days of the change.~~

~~(c) A change in the business organization's structure.~~

~~1. If a business organization's structure changes (e.g., ABC, Inc. to ABC, LLC), this is not considered a name change.~~

~~2. To license the new business organization, a previously qualified Qualifying Agent may apply for licensure by prior approval by submitting the appropriate form, available online, and fee.~~

~~3. This notification must occur within 45 days of the change.~~

~~(d) A change in an individual's or qualifying agent's name.~~

~~1. Notification must include copies of legal name change documents (e.g. divorce decree, marriage license, etc.)~~

~~2. If a duplicate pocket card is desired, a form, available online, must be submitted along with a fee.~~

~~3. This notification must occur within 30 days of the change.~~

~~(e) A change in the Qualify Agent affiliation with a business organization.~~

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- ~~1. Notification that a Qualifying Agent is no longer affiliated with a business organization must be reported by the Qualifying Agent within 30 days of disaffiliation.~~
- ~~2. Notification that a Qualifying Agent is no longer affiliated with a business organization must be reported by an officer or an owner of the company within 45 days of disaffiliation.~~
- ~~3. A Qualifying Agent license will have the status of "null and void" upon the Board's receipt of such notice.~~
- ~~4. A Residential-Basic or Residential-Light Commercial Qualifying Agent will have 1 year from the date of disaffiliation to submit an application for licensure by prior approval with the appropriate fee.~~
- ~~5. A business organization will have 120 days from the date of disaffiliation to submit an application for another Qualifying Agent, unless the business organization has another Qualifying Agent.~~
- ~~6. A Residential-Basic or Residential-Light Commercial Qualifying Agent who leaves a business organization and does not submit a prior approval application within 1 year of disaffiliation must re-apply for licensure by examination. Exam scores that are less than two years old at the time of application may be used to meet the examination requirement. However, application for licensure is still required.~~

(1) A licensee shall report the following changes to the Board:

(a) A change in an individual's or qualifying agent's legal name.

1. A change in an individual's or qualifying agent's legal name must be submitted on the designated form established by the Board within 30 days of the change.

2. Notification must include copies of legal name change documents (e.g. divorce decree, marriage license, etc.)

(b) A change in address or location.

1. A change in mailing address or physical location for the Individual or Qualifying Agent must be submitted on the designated form established by the Board within 30 days of the change.

2. A change in mailing address or physical location for the business organization must be submitted on the designated form established by the Board within 45 days of the change.

(c) A change in the name or structure of the business organization.

1. A change in the name of the business organization must be submitted on the designated form established by the Board within 45 days of the change and must include a Certificate of Amendment from the Corporations Division of the Secretary of State's office.

2. A change in the structure of the business organization (e.g., ABC, Inc. to ABC, LLC) is not considered a name change and a new application will be required.

Beard read the economic impact for Rule 553-11-.01 Change in Status Which Must Be Reported. A motion is needed that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-9(d). Also include in the motion that it is not legal or feasible to meet the objectives of O.C.G.A. § 43-41-5(a)(7), and 43-41-9(d) 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 rule amendment 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 Duck, seconded by Wheeler, and the Board voted to accept the economic impact as read for Rule 553-11-.01 Changes in Status Which Must Be Reported. None opposed, motion carried.

A motion was made by McIntosh, seconded by Dunwoody Jr., and the Board voted to adopt the amendments to Rule 553-11 .01 Change in Status Which Must Be Reported as posted. None opposed, motion carried.

### Rule 553-11-.02 Disaffiliation of Qualifying Agent

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### SYNOPSIS OF PROPOSED ADOPTION OF A NEW RULE TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-11, CHANGES IN STATUS, NEW RULE 553-11-.02 DISAFFILIATION OF QUALIFYING AGENT

**Purpose:** The purpose of the new rule is to establish a rule which provides specific directions to qualifying agents and the owner of a business organization as it relates to the disaffiliation of a qualifying agent.

**Main Features:** The new rule describes the obligations of a qualifying agent and the owner of a business organization as it relates to notifying the Board of the disaffiliation of a qualifying agent. The rule also provides the timeframes as to when the Board must be notified of the disaffiliation of a qualifying agent and the status in which the license shall be placed.

### THE PROPOSED NEW RULE TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-11, CHANGES IN STATUS, NEW RULE 553-11-.02 DISAFFILIATION OF QUALIFYING AGENT

[Note: underlined text is the proposed new rule to be added.]

#### **Rule 553-11-.02 Disaffiliation of Qualifying Agent.**

(1) A licensee shall report a change in the Qualify Agent affiliation with a business organization to the Board:

(a) A Qualifying Agent must notify the Board within 30 days of the termination of the relationship with the business organization for which they are licensed as qualifying agent by submitting a Disaffiliation form, as established by the Board. A Qualifying Agent license shall be placed on inactive status upon the Board's receipt of such notification pursuant to Rule 553-10-.01.

(b) An owner or officer of a licensed Residential or General Contracting company must notify the Board within 45 days of the termination of the relationship with the affiliated licensed qualifying agent by submitting a Disaffiliation form, as established by the Board. A company license shall be placed on inactive status upon the Board's receipt of such notification pursuant to Rule 553-10-.01.

1. If the licensee is the sole qualifying agent for a business organization, the business organization shall have 120 days from the date of disaffiliation to submit an application to the Board for another Qualifying Agent, unless the respective Division receives other substantiated information that the company is no longer in business.

2. After the passage of the 120 day period, the business organization shall be placed on inactive status and cease to be considered licensed as a Residential or General Contracting company until a new application is approved by the appropriate division.

(c) An owner or officer of a licensed Residential or General Contracting company must notify the Board within 45 days of the company no longer being in business by submitting a Disaffiliation form, as established by the Board. A company license shall be placed on inactive status upon the Board's receipt of such notification pursuant to Rule 553-10-.01.

(2) Contracting as a qualifying agent after the date of the termination of the relationship with the business organization shall be considered unlicensed practice and is subject to disciplinary action.

(3) Renewing a qualifying agent license after the date of the termination of the relationship with the business organization shall be considered fraud and is subject to disciplinary action.

Beard read the economic impact for Rule 553-11-.02 Disaffiliation of Qualifying Agent. A motion is needed that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-9(d)(e). Also include in the motion that it is not legal or feasible to meet the objectives of O.C.G.A. § 43-41-5(a)(7), and 43-41-9(d)(e) 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 rule will impact every licensee in the same

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manner and each licensee is independently licensed, owned and operated in the field of residential and general contracting. A motion was made by Ansley, seconded by Dunwoody Jr., and the Board voted to accept the economic impact as read for Rule 553-11-.02 Disaffiliation of Qualifying Agent. None opposed, motion carried.

A motion was made by Duck, seconded by McIntosh, and the Board voted to adopt the amendments to the new Rule 553-11 .02 Disaffiliation of Qualifying Agent as posted. None opposed, motion carried.

### **Rule 553-11-.03 Prior Approval**

#### **SYNOPSIS OF PROPOSED ADOPTION OF A NEW RULE TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-11 CHANGES IN STATUS, NEW RULE 553-11-.03 PRIOR APPROVAL**

**Purpose:** The purpose of this new rule is to create a rule which provides clarity on the process for licensure by prior approval. The rule describes the procedures for issuing a separate license for a licensee who elects to engage in residential or general contracting in a different capacity or for a new company.

**Main Features:** The new rule provides clarity on the process for licensure by prior approval. The rule provides a path for a licensee who elects to engage in residential or general contracting in a different capacity or for a new company to request issuance of a new license. The rule also provides clarity that failing to provide proper notification of disaffiliation pursuant to the board rule is subject to disciplinary action.

#### **THE PROPOSED NEW RULE TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-11 CHANGES IN STATUS, NEW RULE 553-11-.03 PRIOR APPROVAL**

[Note: underlined text is the proposed new rule to be added.]

### **Rule 553-11-.03 Prior Approval.**

(1) A residential or general contractor who holds a current and valid residential or general contractor's license in the State of Georgia may request issuance of a new license by the appropriate division without examination under the following provisions:

(a) Notify the Board of his or her desire to engage in the same category of residential or general contracting which license was issued to him or her in their capacity either as an individual licensee or as a qualifying agent for a business organization by submitting a Prior Approval application with required supporting documents, as established by the Board, along with the required fee.

(b) Shall otherwise meet the requirements for licensure.

(c) Shall not be in violation of this chapter.

(2) A residential or general contractor who was previously issued a residential or general contractor's license in the State of Georgia, may request issuance of a new license by the appropriate division without examination under the following provisions:

(a) Notify the Board of his or her desire to engage in the same category of residential or general contracting which license was issued to him or her in their capacity either as an individual licensee or as a qualifying agent for a business organization by submitting a Prior Approval application with required supporting documents, as established by the Board, along with the required fee.

(b) Submit evidence of attendance of required approved continuing education for each biennium that the license was not active if required by the respective Division.

(c) Shall otherwise meet the requirements for licensure.

(d) Shall not be in violation of this chapter.

(3) Failure to provide proper notification of disaffiliation pursuant to Rule 553-11-.02 shall be considered a violation and is subject to disciplinary action of a public reprimand to include a fine, in addition to any other conditions required by the appropriate division.

Beard read the economic impact for Rule 553-11-.03 Prior Approval. A motion is needed that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-41-5(a)(7), 43-41-9(e)(2). Also include in the motion that it is not legal or feasible to meet the objectives of O.C.G.A. § 43-41-5(a)(7), and 43-41-9(e)(2) 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 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 Duck, seconded by Dunwoody Jr., and the Board voted to accept the economic impact as read for Rule 553-11-.03 Prior Approval. None opposed, motion carried.

A motion was made by Cleveland, seconded by Duck, and the Board voted to adopt the new Rule 553-11 .03 Prior Approval as posted. None opposed, motion carried.

**Rule 553-12-.06 Revocation For Failure to Renew and Reinstatement**

**SYNOPSIS OF PROPOSED AMENDMENT TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-12, LICENSE RENEWAL AND CONTINUING EDUCATION, RULE 553-12-.06 REVOCATION FOR FAILURE TO RENEW AND REINSTATEMENT**

**Purpose:** The purpose of this rule amendment is to removes the requirement for reinstatement applicants applying for reinstatement more than five years after the expiration date to meet all current qualifications for licensure including examination.

**Main Features:** The amended rule clarifies residential contractors must submit evidence of completion of continuing education for each biennium that the license was lapsed. The rule eliminates the requirement for a reinstatement applicant reinstating more than five (5) years after the expiration from having to meet all current qualifications for licensure including examination.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED AMENDMENTS TO THE STATE LICENSING BOARD FOR RESIDENTIAL AND GENERAL CONTRACTORS, BOARD RULE CHAPTER 553-12, LICENSE RENEWAL AND CONTINUING EDUCATION, RULE 553-12-.06 REVOCATION FOR FAILURE TO RENEW AND REINSTATEMENT**

[Note: underlined text is proposed to be added; lined-through text is proposed to be deleted.]

**Rule 553-12-.06 Revocation for Failure to Renew and Reinstatement.**

(1) Failure to renew a license within the six months late renewal period ending December 31 of the renewal year shall have the same effect as revocation of the license.

(2) Persons not renewing within the 6 months late period may apply for reinstatement of the license by submitting a reinstatement application with a reinstatement fee established by the Board. Residential applicants must submit evidence of attendance of the required approved continuing education for each biennium that the license was lapsed.

(3) The reinstatement of any license shall be at the sole discretion of the appropriate division and such division may deny the license or approve such license with any conditions it may deem necessary, including but not limited to the retaking of the licensure examination.

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~~(4) If the reinstatement application is submitted more than 5 years after the expiration date of the license, the applicant shall submit the required fee and meet all current qualifications for an applicant for a new license, including examination, in addition to any other conditions required by the appropriate division.~~

~~(5)~~(4) Denial of a reinstatement application is not considered a contested case under the APA.

Beard read the economic impact for Rule 553-12-.06 Revocation for Failure to Renew and Reinstatement. A motion is needed that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee or entity and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-1-19(1), 43-41-5(a)(7), 43-41-6(i), and 43-41-6(k). Also include in the motion that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-19, 43-41-5(a)(7), 43-41-6(i), and 43-41-6(k) 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 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 Duck, seconded by Dunwoody Jr., and the Board voted to accept the economic impact as read. None opposed, motion carried.

A motion was made by Wheeler, seconded by Duck, and the Board voted to adopt the amendments to the Rule 553-12.06. Revocation for Failure to Renew and Reinstatement as posted. None opposed, motion carried.

The hearing was adjourned at 9:29 a.m.

A motion was made by Wheeler, seconded by Cooper, and the Board voted to release the memorandum of authority for each rule voted on at this meeting to the Governor's Office.

### **Open Session Minutes:**

A motion was made by Duck, seconded by Wheeler, and the Board voted to approve the minutes of the November 7, 2018 meeting. None opposed, motion carried.

### **Review of Correspondence:**

The Board reviewed and discussed correspondence. A motion was made by Noe, seconded by Cleveland, and the Board voted to accept the following recommendations on the open correspondence. None opposed, motion carried.

Holly, Robert - In response to your inquiry with the Board, the Board does view the placement and finishing of concrete as a limited service specialty contractor.

### **Executive Session:**

At 9:33 a.m. a motion was made by Cooper, seconded by Wheeler, 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) in order to review the Executive Session minutes, legal service's report and complaints. None opposed, motion carried.

At the conclusion of the Executive Session on Wednesday, January 30, 2019 Pellicano 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.

### **Open Session:**

#### **Executive Session Minutes:**

A motion was made by Cooper, seconded by Garbutt, and the Board voted to approve the minutes of the November 7, 2019 meeting. None opposed, motion carried.

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**Legal Service's Report:**

A motion was made by Cooper, seconded by McIntosh, and the Board voted to accept the following recommendations on the items presented from the Legal Services Department. None opposed, motion carried.

T.D. – Deny request to release the certificate of insurance in accordance with O.C.G.A. § 43-1-2(k).

W.F. – Deny request to release the application in accordance with O.C.G.A. § 43-1-2(k).

S.R. – Deny request to release the certificate of insurance in accordance with O.C.G.A. § 43-1-2(k). Refer to Attorney General for disciplinary action.

M.B. – Deny request to release the certificate of insurance in accordance with O.C.G.A. § 43-1-2(k).

C.D. – Deny request to release the certificate of insurance in accordance with O.C.G.A. § 43-1-2(k).

R.M. - Deny request to release the certificate of insurance in accordance with O.C.G.A. § 43-1-2(k).

W.T. – Reschedule an appearance for next meeting.

**Complaints:**

A motion was made by Noe, seconded by Cleveland, and the Board voted to accept the following recommendations on complaints presented. None opposed, motion carried.

Send a letter requesting an update to the State Licensing Board for Residential and General Contractors and response to be received within 30 days.

RGC170312

RGC19011

With no other business to discuss, the State Licensing Board for Residential and General Contractors meeting adjourned at 9:59 a.m.

The next scheduled Board meeting is to be held on Wednesday, August 14, 2019 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 6, 2019.