**Q. We have been running into unlicensed contractors and are concerned that they are undercutting our prices and providing substandard work to their customers. Are there any penalties for contractors that do business without a license? Also, are there any contractors that are not required to be licensed?**

A. Under Georgia law, to engage in residential or general contracting, an individual or business must have a current, valid residential or general contractor license issued by the State Licensing Board for Residential and General Contractors (the “Board”). As a general matter, anyone who engages in contracting without a license is guilty of a misdemeanor and if convicted can be punished by a fine of at least $500 and/or imprisonment of three months. Additionally, if the Board becomes aware that an unlicensed contractor is doing contracting work, the Board may go to court in the county in which the contractor’s business is located and obtain an injunction against the unlicensed work.

Even more importantly, an unlicensed contractor cannot enforce any contract entered into for work for which a residential or general contractor license is required and which contract is between an owner and an unlicensed contractor. The unlicensed contractor further has no right to enforce any lien or bond remedies for any labor, services, or materials provided under the contract or any amendment to the contract. The purpose of this statewide licensing system is to safeguard homeowners, other property owners, tenants, and the general public against faulty, inadequate, inefficient, and unsafe contractors. For that reason, contracts between unlicensed contractors and property owners are void, at least as far as the unlicensed contractor’s right to enforce them goes.

However, there are several exceptions to the license requirement for general and residential contractors. First, the licensing statute permits a property owner to act as his own contractor and to use unlicensed contractors. Specifically, the statute does not prevent any person from constructing a building or structure on real property owned by that person which is intended upon completion for use or occupancy solely by that person and his or her family, firm, or corporation and its employees, and not for use by the general public and not offered for sale or lease. In so doing, the person may act as his or her own contractor personally providing direct supervision and management of all work not performed by licensed contractors.

Second, the statute exempts a specialty contractor from the general contractor licensing requirement where “the total scope of the work to be performed is predominantly of the type for which such specialty contractor is duly recognized as exempt … by the board, provided that such other work involved is incidental to and an integral part of the exempt work performed by the specialty contractor and does not exceed the greater of $10,000.00 or 25 percent of the total value at the time of contracting of the work to be performed.” A “specialty contractor” is defined as “a contractor whose scope of work and responsibility is of limited scope dealing with only a specific trade and directly related and ancillary work and whose performance is limited to such specialty construction work requiring special skill and requiring specialized building trades or crafts, including, but not limited to, such activities, work, or services requiring licensure” by the statute. Importantly, however, Georgia law provides that no person shall engage in electrical contracting or plumbing without being licensed in those respective fields, and the specialty contracting exemption from licensing does not affect this requirement.

Third, an unlicensed contractor can provide repair work for a property owner if the contractor performing the work discloses in writing to the owner that he is unlicensed and if the work does not affect the structural integrity or life safety requirements of the property. The Board has defined “repair” to mean “fixing, mending, maintenance, replacement or restoring of a part or portions of real property to good condition.” The repair work cannot include the removal or addition of any load bearing wall or the removal or cutting of any structural beam or load bearing support. And, the person performing the repairs must obtain permits and inspections as required by local requirements.

There are several additional exceptions to the licensing requirement that are set forth in the governing statute but not discussed here.

It is also important to note that the Board has the ability to revoke the license of a contractor for a number of acts, including: being convicted of or entering a guilty plea to a felony which directly relates to the practice of residential or general contracting; performing any act which assists a person or entity in the prohibited unlicensed practice of contracting; knowingly allowing an unlicensed person to use his contracting license to evade the license requirements; abandoning a construction project; and several others.

If you have a specific question about the contractor license requirement or any of the potential exceptions, please contact Bloom Parham for assistance.