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PROFESSIONS AND BUSINESSES Architects: Change Certain Provisions Relating to Which Structures Do Not Require the Seal of a Registered Architect; Provide That Nothing Shall Be Construed to Mean That Construction Contract Administration Services Are Required to Be Performed Exclusively by Architects; Change the Provisions Relating to Architect Seals and Documents Required to Be Sealed

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PROFESSIONS AND BUSINESSES

Architects: Change Certain Provisions Relating to Which Structures Do Not Require the Seal of a Registered Architect; Provide That Nothing Shall Be Construed to Mean That Construction Contract Administration Services Are Required to Be Performed Exclusively by Architects; Change the Provisions Relating to Architect Seals and Documents Required to Be Sealed

CODE SECTIONS:	O.C.G.A. § 43-4-14, -16 (amended)
BILL NUMBER:	HB 297
ACT NUMBER:	218
GEORGIA LAWS:	2001 Ga. Laws 741
SUMMARY:	<p>The Act provides for a clearer standard for determining when the services of an architect are required by law. Specifically, the Act provides that the seal of an architect is not required for single story buildings less than 5000 square feet in area. The Act also exempts single story pre-engineered buildings from requiring an architect's seal, provided that they are not assembly occupancies, educational occupancies, health care occupancies, correctional or detention facilities, hotels, dormitories or lodging facilities, multifamily housing or apartment complexes, care facilities, or facilities that are classified as "high hazard." Further, when the drawings and specifications for nonload-bearing interior construction in office structures designed by a registered architect, are prepared by a Georgia registered interior designer, they will be in compliance with the Act. The Act delineates those individuals who are not required to register as architects in Georgia, as well as those documents requiring architects' seals. Finally, the Act allows for general contractors to offer "design-build" contracts, and provides that the</p>

administration services associated with construction contracts are not exclusive to architects.

EFFECTIVE DATE: July 1, 2001

History

The construction industry in Georgia is presently booming, with new building structures going up all the time.¹ Since all buildings require construction plans and specifications in order to be erected, it is important to specify which buildings must be designed by an architect, who qualifies as an architect, and which plans or documents require an architect's seal.² In 2000, the Georgia Chapter of the American Institute of Architects (AIA) addressed these very issues by introducing legislation, SB 350, to revise the somewhat outdated Georgia Practice Act for Architects.³ Unfortunately, however, the rewrite of the Architects' Practice Act created "gray areas" and ambiguity related to the types and sizes of projects requiring an architect's services.⁴ In fact, there was a uniform sense that the "glitches" engendered by SB 350 needed to be examined, tackled, and cleared up before the Act could be implemented.⁵

Shortly after the 2000 General Assembly ended, the Georgia Branch of Associated General Contractors (AGC), the American Consulting Engineers Council of Georgia (ACEC), and the AIA met to discuss the potential confusion caused by the newly enacted legislation.⁶ All three groups agreed that there was a problem with SB 350, but reached an

1. See, e.g., H.M. Cauley, *Suwanee, Gwinnett County Town Flourishes; Building Booms*, ATLANTA J. CONST., Feb. 20, 2000, at HF8; Cheryl Crabb, *Commercial Developers Go Far Afield After the Olympics: As the Population Soars in Outlying Areas Like North Fulton and Cherokee Counties, Office and Retail Complexes Spring Up, Too*, ATLANTA J. CONST., Aug. 17, 1998, at E7; Susan Harte, *Atlanta's Housing Market Falts A Bit But Still Healthy*, ATLANTA J. CONST., Dec. 26, 2000, at B1; Jeffrey Scott, *Head for the Hills: Once A Sleepy Town in the Mountains, Blue Ridge is Booming, For Good or Ill*, ATLANTA J. CONST., Sept. 4, 2000, at E1.

2. See SB 350, as introduced, 2000 Ga. Gen. Assem.

3. See Electronic Mail Interview with Mark S. Woodall, Director of Governmental Affairs, Georgia Branch Associated General Contractors (Apr. 3, 2001) [hereinafter Woodall Interview].

4. See Audio Recording of House Proceedings, Feb. 20, 2001 (remarks by Rep. Alan Powell), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].

5. See Audio Recording of Senate Proceedings, Mar. 15, 2001 (remarks by Sen. Eric Johnson), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

6. See Woodall Interview, *supra* note 3.

impasse as to how it could be remedied.⁷ Consequently, by the summer of 2000, the three groups, together with the Building Officials Association of Georgia (BOAG), approached Representative Alan Powell for his assistance in preparing a “repair bill.”⁸ Representative Powell agreed to introduce “clean-up legislation,” but insisted that the groups brainstorm and collectively develop compromise language that would satisfy all the parties involved.⁹ The result was HB 297, which created a clearer standard for determining when the services of an architect are required by law, and simultaneously reflected the spirit of cooperation and compromise among the affected parties (AIA, AGC, ACEC, and BOAG).¹⁰ It is an example of “good legislation . . . supported by all of the stakeholders,” and more closely reflects current industry practices and national model language.¹¹

HB 297

Introduction

Representatives Alan Powell of the 23rd District, Lynn Westmoreland of the 104th District, Roger Byrd of the 170th District, and Mike Snow of the 2nd District sponsored HB 297.¹² Representative Powell introduced the bill on the House floor on January 26, 2001.¹³ The House assigned the bill to its Industry Committee, which favorably reported the bill, as substituted.¹⁴ The House adopted the Committee substitute and passed the bill unanimously on February 20, 2001.¹⁵ On February 21, 2001, the Senate assigned HB 297 to its Defense, Science and Technology Committee, which favorably reported the bill on March 14, 2001.¹⁶ The Senate adopted and unanimously passed the bill on March 15, 2001 without change.¹⁷ The General Assembly forwarded the

7. *See id.*

8. *See* Telephone Interview with Rep. Lynn Westmoreland, House District No. 104 (Apr. 2, 2001) [hereinafter Westmoreland Interview].

9. *See* Woodall Interview, *supra* note 3.

10. *See id.*

11. *See id.*

12. *See* HB 297, as introduced, 2001 Ga. Gen. Assem.

13. *See* State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001.

14. *See id.*

15. *See* Georgia House of Representatives Voting Record, HB 297 (Feb. 20, 2001); State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001; *see also* House Audio, *supra* note 4 (voting on Committee Substitute).

16. *See* State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001.

17. *See* Georgia Senate Voting Record, HB 297 (Mar. 15, 2001); State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001; *see also* Senate Audio, *supra* note 5 (voting proceedings).

bill to Governor Roy Barnes, who signed HB 297 into law on April 26, 2001.¹⁸

Consideration by the House Industry Committee

After introduction, the House assigned the bill to its Industry Committee.¹⁹ The Committee favorably reported the bill, as substituted, on February 20, 2001.²⁰ The Industry Committee substitute amended Code section 43-4-14(b)(4) of the Architects' Practice Act in Georgia, to provide for greater clarity regarding the exceptions to the general category of pre-engineered buildings, or "Butler buildings,"²¹ to be exempted from the architect seal requirement.²² As introduced, the Code section exempted a broad category of "preengineered metal buildings . . . with respect to ordinary hazard use, as storage and not for human habitation" but, as amended, the category was narrowed.²³ The bill substitute clarified the exceptions to the pre-engineered building exemption, by specifying some human habitation contexts that would continue to require an architect's seal.²⁴ As substituted, all "educational occupancies, health care occupancies, correctional or detention facilities, hotels, dormitories or lodging facilities, multifamily housing or apartment complexes" regardless of whether they are one-story, preengineered buildings or not, still require an architect's seal.²⁵

The Committee substitute also amended Code section 43-4-14(g) by no longer restricting the definition of "construction contract administration services" to paragraph (2) of Code section 43-4-1.²⁶ In broadening the scope of construction contract services and simultaneously allowing for such services to be performed by

18. See 2001 Ga. Laws 741, § 3, at 743.

19. See State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001.

20. See *id.*

21. Butler has been the nation's largest manufacturer of pre-engineered buildings since 1901. One out of every four pre-engineered metal buildings built in this country is a Butler building. Consequently, the term "Butler buildings" refers to pre-engineered metal buildings in much the same way that "Kleenex" refers to facial tissues, or "Q-tips" refers to swabs.

22. Compare HB 297, as introduced, 2001 Ga. Gen. Assem., with HB 297 (HCS), 2001 Ga. Gen. Assem.

23. Compare HB 297, as introduced, 2001 Ga. Gen. Assem., with HB 297 (HCS), 2001 Ga. Gen. Assem.

24. Compare HB 297, as introduced, 2001 Ga. Gen. Assem., with HB 297 (HCS), 2001 Ga. Gen. Assem.

25. Compare HB 297, as introduced, 2001 Ga. Gen. Assem., with HB 297 (HCS), 2001 Ga. Gen. Assem.

26. Compare HB 297, as introduced, 2001 Ga. Gen. Assem., with HB 297 (HCS), 2001 Ga. Gen. Assem.

individuals other than architects, the Committee substitute further reduced the need for architectural services.²⁷ Still, because a variety of industry professionals, including construction management firms and engineers, provide these type of services in today's construction market, the amendment was perceived as reflecting today's industry standards.²⁸

House Passage

The House unanimously passed HB 297, as substituted, on February 20, 2001.²⁹ The bill was referred to the Senate Defense, Science and Technology Committee on February 21, 2001.³⁰

Consideration by the Senate Defense, Science and Technology Committee

The Senate Defense, Science and Technology Committee favorably reported the bill on March 14, 2001.³¹ On March 15, 2001, the Senate adopted and unanimously passed the bill without making any changes.³² Governor Roy Barnes signed HB 297 into law on April 26, 2001.³³

The Act

The Act comprehensively revises the law relating to architectural practice in Georgia, addresses the contexts in which architectural services are required, and also provides clarification regarding which structures or documents require a registered architect's seal.³⁴

The Act amends Code section 43-4-14(b)(4) by adding language that defines the meaning of "human habitation," and thereby provides clarification regarding the Butler buildings that are excepted from the architect seal exemption.³⁵ The Act specifies that "new or existing assembly occupancies, educational occupancies, health care

27. Compare HB 297, as introduced, 2001 Ga. Gen. Assem., with HB 297 (HCS), 2001 Ga. Gen. Assem.

28. See Woodall Interview, *supra* note 3.

29. See Georgia House of Representatives Voting Record, HB 297 (Feb. 20, 2001); State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001.

30. See State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001.

31. See State of Georgia Final Composite Status Sheet, HB 297, Mar. 21, 2001.

32. See Georgia Senate Voting Record, HB 297 (Mar. 15, 2001).

33. 2001 Ga. Laws 741, § 3, at 743.

34. See 2001 Ga. Laws 741, §§ 1-2, at 741-43.

35. Compare 2000 Ga. Laws 1527, § 1, at 1535 (formerly found at O.C.G.A. § 43-4-14(b)(4) (Supp. 2000)), with O.C.G.A. § 43-4-14(b)(4) (Supp. 2001).

occupancies, correctional or detention facilities, hotels, dormitories or lodging facilities, multifamily housing or apartment complexes, care facilities, and facilities classified as high hazard” are not exempt from the architectural seal requirement, despite the fact that they may be pre-engineered, single story buildings.³⁶ Additionally, the Act adds language providing that even in the case of pre-engineered, single story buildings, “the services of a duly registered architect shall be required for the design of any business or mercantile occupancies that exceed 5000 square feet in area that are incidental to the operation in such building.”³⁷

Finally, the Act amends Code section 43-4-14(g), broadening the definition of “construction administration contract services,” by no longer limiting it to that of paragraph (2) of Code Section 43-4-1.³⁸ This section also provides that construction administration contract services are no longer delegated exclusively by architects; as such, construction contractors and engineers are now allowed to administer their own design-build contracts.³⁹

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36. Compare 2000 Ga. Laws 1527, § 1, at 1535 (formerly found at O.C.G.A. § 43-4-14(b)(4) (Supp. 2000)), with O.C.G.A. § 43-4-14(b)(4) (Supp. 2001).

37. Compare 2000 Ga. Laws 1527, § 1, at 1535 (formerly found at O.C.G.A. § 43-4-14(b)(4) (Supp. 2000)), with O.C.G.A. § 43-4-14(b)(4) (Supp. 2001).

38. Compare 2000 Ga. Laws 1527, § 1, at 1527 (formerly found at O.C.G.A. § 43-4-14 (Supp. 2000)), with O.C.G.A. § 43-4-14(g) (Supp. 2001).

39. Compare 2000 Ga. Laws 1527, § 1, at 1527 (formerly found at O.C.G.A. § 43-4-14 (Supp. 2000)), with O.C.G.A. § 43-4-14(g) (Supp. 2001).