

Senate Bill 325

By: Senators Albers of the 56th, Carter of the 1st, Hufstetler of the 52nd and Ligon, Jr. of the 3rd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 25 of the Official Code of Georgia Annotated, relating to fire protection and
2 safety, so as to change provisions related to regulation of fire protection sprinkler contractors
3 and fire extinguishers and suppression systems; to provide for changes to cease and desist
4 orders; to provide for written notices; to change provisions relating to additional grounds for
5 revocation or suspension of licenses; to provide for penalties; to provide for a civil action to
6 enjoin violations of such provisions, rules, regulations, or orders issued by the
7 Commissioner; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Title 25 of the Official Code of Georgia Annotated, relating to licensing and regulation of
12 fire protection sprinkler contractors, is amended by revising Code Section 25-11-16, relating
13 to cease and desist orders against violators, penalties for violations, order requiring
14 compliance, and revocation of certificate for failure to comply with order, as follows:
15 "25-11-16.

16 (a) Whenever the Commissioner shall have reason to believe that any individual is or has
17 been violating any provisions of this chapter, the Commissioner, his or her deputy, his or
18 her assistant, or other designated persons may issue and deliver to the individual an order
19 to cease and desist such violation. An order issued under this Code section may be
20 delivered in accordance with the provisions of subsection (d) of this Code section.

21 (b) Violation of any provision of this chapter or failure to comply with a cease and desist
22 order is cause for revocation of any or all certificates and licenses issued by the
23 Commissioner for a period of not less than six months and not to exceed five years. If a
24 new certificate or license has been issued to the person so charged, the order of revocation
25 shall operate effectively with respect to such new certificates and licenses held by such
26 person. In the case of an applicant for a license, certificate, or permit, violation of any

provision of this title or regulations promulgated thereunder may constitute grounds for refusal of the application. Decisions under this subsection may be appealed as provided by law.

(c) Any person who violates any provision of this chapter or any rule, regulation, or order issued by the Commissioner under this chapter shall be subject to a civil penalty imposed by the Commissioner of not more than \$1,000.00 for a first offense, not less than \$1,000.00 and not more than \$2,000.00 for a second offense, and not less than \$2,000.00 or more than \$5,000.00 for a third or subsequent offense ~~for each day a violation persists after such person is notified of the Commissioner's intent to impose such penalty and the right to a hearing with respect to same.~~ Prior to subjecting any person or entity to a fine under this subsection, the Commissioner or his or her agent shall give written notice to the person or entity by hand delivery or by registered or certified mail or statutory overnight delivery, return receipt requested, of the existence of the violations. After a reasonable period of time after notice is given, an order may be issued based on this Code section. Such order must be delivered in accordance with the provisions of subsection (d) of this Code section and must notify the person or entity of the right to a hearing with respect to same.

(d) Any order issued by the Commissioner under this chapter shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten days of receipt of the order and notice. The order and notice shall be served by delivery by the Commissioner or his or her agent or by registered or certified mail or statutory overnight delivery, return receipt requested. Any person who fails to comply with any order under this subsection is guilty of a misdemeanor and may be punished by law.

(e) In addition to other powers granted to the Commissioner under this chapter, the Commissioner may bring a civil action to enjoin a violation of any provision of this chapter or of any rule, regulation, or order issued by the Commissioner under this chapter."

SECTION 2.

Said title is further amended by revising Code Section 25-11-17, relating to additional grounds for revocation or suspension of licenses, as follows:

"25-11-17.

In addition to the grounds set forth in Code Section 25-11-16, it is cause for revocation or suspension, refusal, or nonrenewal of certificates or licenses by the Commissioner if it is determined that the holder or applicant has:

- (1) Rendered inoperative a water-based fire protection system covered by this chapter, except during a reasonable time during which the system is being repaired, altered, added to, maintained, or inspected, or except pursuant to a court order;

- (2) Falsified any record required to be maintained by this chapter or rules or regulations adopted pursuant to this chapter or current fire codes enforced by the Commissioner;
- (3) Improperly installed, repaired, serviced, modified, altered, inspected, or tested a water-based fire protection system;
- (4) While holding a certificate or license, allowed another person to use the certificate or license or certificate number or license number other than his or her own valid certificate or license or certificate number or license number;
- (5) While holding a certificate or license, used a certificate or license or certificate number or license number other than his or her own valid certificate or license or certificate number or license number;
- (6) Used credentials, methods, means, or practices to impersonate a representative of the Commissioner or the state fire marshal or any local fire chief, fire marshal, or other fire authority having jurisdiction;
- (7) Failed to maintain the minimum insurance coverage as set forth in this chapter; ~~or~~
- (8) Failed to obtain, retain, or maintain one or more of the minimum qualifications and requirements to obtain a certificate of competency or other licenses required by this chapter;
- (9) Installed, serviced, modified, altered, inspected, maintained, added to, or tested a water-based fire protection system without a current, valid license or certificate, when such license or certificate is required by this chapter;
- (10) Made a material misstatement or misrepresentation or committed a fraud in obtaining or attempting to obtain a license or certificate; or
- (11) Failed to notify the Commissioner, in writing, with 30 days after a change of residence, principal business address, or name.
- In addition to other grounds set forth in this Code section, the Commissioner shall not issue a new license or certificate if the Commissioner finds that the circumstance or circumstances for which the license or certificate was previously suspended or revoked still exist or are likely to recur."

SECTION 3.

Said title is further amended by revising Code Section 25-12-18, relating to cease and desist orders, period of revocation, civil penalty, and opportunity for hearing, as follows:

"25-12-18.

(a) Whenever the Commissioner shall have reason to believe that any individual is or has been violating any provisions of this chapter, the Commissioner, his or her deputy, his or her assistant, or other designated persons may issue and deliver to the individual an order

to cease and desist such violation. An order issued under this Code section may be delivered in accordance with the provisions of subsection (d) of this Code section.

(b) Violation of any provision of this chapter or failure to comply with a cease and desist order is cause for revocation of any or all permits and licenses issued by the Commissioner for a period of not less than six months and not to exceed five years. If a new permit or license has been issued to the person so charged, the order of revocation shall operate effectively with respect to such new permits and licenses held by such person. In the case of an applicant for a license, certificate, or permit, violation of any provision of this title may constitute grounds for refusal of the application. Decisions under this subsection may be appealed as provided by law.

(c) Any person who violates any provision of this chapter or any rule, regulation, or order issued by the Commissioner under this chapter shall be subject to a civil penalty imposed by the Commissioner of not more than \$1,000.00 for a first offense, not less than \$1,000.00 and not more than \$2,000.00 for a second offense, and not less than \$2,000.00 or more than \$5,000.00 for a third or subsequent offense ~~for each day a violation persists after such person is notified of the Commissioner's intent to impose such penalty and the right to a hearing with respect to same.~~ Prior to subjecting any person or entity to a fine under this subsection, the Commissioner or his or her agent shall give written notice to the person or entity by hand delivery or by registered or certified mail or statutory overnight delivery, return receipt requested, of the existence of the violations. After a reasonable period of time after notice is given, an order may be issued based on this Code section. Such order must be delivered in accordance with the provisions of subsection (d) of this Code section and must notify the person or entity of the right to a hearing with respect to same.

(d) Any order issued by the Commissioner under this chapter shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if a person subject to the order requests a hearing within ten days of receipt of the order and notice. The order and notice shall be served by delivery by the Commissioner or his or her agent or by registered or certified mail or statutory overnight delivery, return receipt requested. Any person who fails to comply with any order under this subsection is guilty of a misdemeanor and may be punished as provided by law.

(e) In addition to other powers granted to the Commissioner under this chapter, the Commissioner may bring a civil action to enjoin a violation of any provision of this chapter or of any rule, regulation, or order issued by the Commissioner under this chapter."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.