



North Carolina Licensing Board
for General Contractors

- North Carolina
General
Contractor
Licensing
Statutes
- Homeowners
Recovery
Fund Laws
- Regulations
for Contractors
- North Carolina
Administrative
Code

2018
Laws and
Regulations
Applicable to
General
Contracting in
the State of
North Carolina



North Carolina Licensing Board for General Contractors

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INTRODUCTION

In 1925 the North Carolina General Assembly established the authority of the North Carolina Licensing Board for Contractors, amending Chapter 318 of the Public Laws, designed for the purpose of safeguarding life, health and property and to promote public welfare. The licensing statutes which govern the North Carolina Licensing Board for General Contractors prescribe certain standards for persons, firms and corporations who enter into contracts for construction work in this state. The practice act providing specific regulatory authority over general contractors is found under N.C. General Statute §87, Article 1. Current laws in North Carolina define general contractors as persons, firms or corporations who enter into contracts for construction projects costing \$30,000 or more.

The Board provides this publication free of charge to enhance public

awareness and to inform the general public of the Board's purpose and function. Published in this book are the current North Carolina General Statutes applicable to the practice of general contracting, Chapter 87, Article 1 and 1A. Also included are references to general statutes pertaining to other important aspects of the construction industry in this state, and the rules and regulations of this agency set forth under the N.C. Administrative Code (Title 21, Chapter 12).

This publication supersedes previous editions or printings of these Articles and rules.

Other informative publications are provided by the Board upon request and without charge. Specific questions concerning the foregoing laws, rules and regulations applicable to the practice of general contracting should be referred to the Board office in Raleigh, North Carolina.

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GENERAL CONTRACTORS

LIMITATIONS

- LIMITED – Up to \$500,000.00 on any single project
- INTERMEDIATE – Up to \$1,000,000.00 on any single project
- UNLIMITED – Not restricted as to the value of any single project

CLASSIFICATIONS

- Building**
- Residential**
- Highway**
- Public Utilities**
- Specialty**
- Unclassified** – (includes all of the above classifications)

EXAMINATIONS and LICENSURE (N.C. G.S. 87-10)

A qualifying examination is not an occupational license, and does not grant the holder of such examination the authority to practice general contracting. Individuals may be licensed by their personal examinations or the examination of a responsible managing employee. Partnerships and corporations are licensed by examination of a responsible managing officer or member of the personnel of the applicant. If the qualifying party leaves, however, the licensee must replace the qualifying party within ninety (90) days or the license is canceled.

Licensees should not allow unlicensed persons, firms or corporations to use the general contractor’s license with the licensee’s permission. Although licensed general contractors may have an ownership interest in an unlicensed entity, the unlicensed contractor may not use a general contractor’s license for any reason. Violators of the general contractor laws and regulations may be disciplined by the Licensing Board for General Contractors for allowing the use of a license by an unlicensed person or other entities. Appropriate sanctions may include suspension or revocation of license.

Licenses must be renewed annually by December 31 for the following year, or the license expires. If a license is not renewed within sixty (60) days following expiration, then it becomes “invalid,” and the contractor becomes, in effect, unlicensed. Reexamination is required if a license is not renewed for four (4) years following expiration. After a lapse of four years, no renewal shall be effected and all requirements for a new license must be fulfilled, in accordance with G.S. 87-10.

This publication may not be sold for profit. This publication contains rules and general statutes which may be amended periodically — all such current amendments may not be reflected in this publication.

AN ACT TO REGULATE THE PRACTICE OF GENERAL CONTRACTING

- §87-1. “General contractor” defined; exceptions.
- (a) For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars (\$30,000) or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a “general contractor” engaged in the business of general contracting in the State of North Carolina.
- (b) This section shall not apply to the following:
- (1) Persons, firms, or corporations furnishing or erecting industrial equipment, power plant equipment, radial brick chimneys, and monuments.
 - (2) Any person, firm, or corporation who constructs or alters a building on land owned by that person, firm, or corporation provided (i) the building is intended solely for occupancy by that person and his family, firm, or corporation after completion; and (ii) the person, firm, or corporation complies with G.S. 87-14. If the building is not occupied solely by the person and his family, firm, or corporation for at least 12 months following completion, it shall be presumed that the person, firm, or corporation did not intend the building solely for occupancy by that person and his family, firm, or corporation.
 - (3) Any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when the building is intended for use by that person after completion.
- §87-1.1 Exception for licensees under Article 2 or 4.
- G.S. 87-1 shall not apply to a licensee under Article 2 or 4 of this Chapter of the General Statutes, G.S. 87-43 shall not apply to a licensee under Article 2 of this Chapter of the General Statutes, and G.S. 87-21(a)(5) shall not apply to a licensee under Article 4 of this Chapter of the General Statutes when the licensee is bidding and contracting directly with the owner of a public building project if: (i) a licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor’s rules; and (ii) the total amount of the general contracting work so classified does not exceed a percentage of the total bid price pursuant to rules established by the Board; and (iii) a licensee with the appropriate license under Article 2 or Article 4 of this Chapter performs all work that falls within the classifications in Article 2 and Article 4 of this Chapter.
- §87-1.2 Exception for specified Department of Transportation contractors.
- The letting of contracts for the types of projects specified in G.S. 136-28.14 shall not be subject to the licensing requirement of this Article.
- §87-2. Licensing Board; organization.
- There is created the State Licensing Board for General Contractors consisting of nine members appointed by the Governor for staggered five-year terms. Five of the members shall be general contractors, one member shall be a registered engineer

who practices structural engineering, and three shall be public members. Of the general contractor members, one shall have as the larger part of his business the construction of highways; one shall have as the larger part of his business the construction of public utilities; one shall have as the larger part of his business the construction of buildings; and two shall have as a larger part of their businesses the construction of residences, one of whom shall be the holder of an unlimited general contractor's license. The public members shall have no ties with the construction industry and shall represent the interests of the public at large. Members shall serve until the expiration of their respective terms and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment of the Governor for the remainder of the unexpired term. The Governor may remove any member of the Board for misconduct, incompetency, or neglect of duty. No Board member shall serve more than two complete consecutive terms.

§87-3. Members of the Board to take oath.

Each member of the Board shall, before entering upon the discharge of the duties of his office, take and file with the Secretary of State an oath in writing to properly perform the duties of his office as a member of said Board and to uphold the Constitution of North Carolina and the Constitution of the United States.

§87-4. First meeting of the Board; officers; secretary-treasurer and assistants.

The said Board shall, within 30 days after its appointment by the Governor, meet in the City of Raleigh, at a time and place to be designated by the Governor, and organize by electing a chairman, a vice-chairman, and a secretary-treasurer, each to serve for one year. Said Board shall have power to make such bylaws, rules and regulations as it shall deem best, provided the same are not in conflict with the laws of North Carolina. The secretary-treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. The secretary-treasurer need not be a member of the Board, and the Board is hereby authorized to employ a full-time secretary-treasurer, and such other assistants and make such other expenditures as may be necessary to the proper carrying out of the provisions of this Article. Payment of compensation and reimbursement of expenses of Board members shall be governed by G.S. 93B-5.

§87-5. Seal of the Board

The Board shall adopt a seal for its own use. The seal shall have the words "North Carolina Licensing Board for General Contractors" and the secretary shall have charge, care and custody thereof.

§87-6. Meetings; notice; quorum.

The Board shall meet twice each year, once in April and once in October, for the purpose of transacting such business as may properly come before it. At the April meeting in each year the Board shall elect officers. Special meetings may be held at such times as the Board may provide in the bylaws it shall adopt. Due notice of each meeting and the time and place thereof shall be given to each member in such manner as the bylaws may provide. Five members of the Board shall constitute a quorum.

§87-7. Records of Board; disposition of funds.

The secretary-treasurer shall keep a record of the proceedings of the said Board and shall receive and account for all moneys derived from the operation of this Article. Any funds remaining in the hands of the secretary-treasurer to the credit of the Board after the expenses of the Board for the current year have been paid shall be paid over to the Greater University of North Carolina for the use of the School of Engineering through the North Carolina Engineering Foundation. The Board has the right, however, to retain at least ten percent (10%) of the total expense it incurs

for a year's operation to meet any emergency that may arise. As an expense of the Board, said Board is authorized to expend such funds as it deems necessary to provide retirement and disability compensation for its employees.

§87-8. Records; roster of licensed contractors; report to Governor.

The secretary-treasurer shall keep a record of the proceedings of the Board and a register of all applicants for license showing for each the date of application, name, qualifications, place of business, place of residence, and whether license was granted or refused. The books and register of this Board shall be prima facie evidence of all matters recorded therein. A roster showing the names and places of business and of residence of all licensed general contractors shall be prepared by the secretary of the Board during the month of March of each year; the roster shall be printed by the Board out of funds of the Board as provided in G.S. 87-7, with copies being made available to contractors and members of the public, at cost, upon request, or furnished without cost, as directed by the Board. On or before the last day of March of each year the Board shall submit to the Governor a report of its transactions for the preceding year, and shall file with the Secretary of State a copy of the report, together with a complete statement of the receipts and expenditures of the Board, attested by the affidavits of the chairman and the secretary, and a copy of the roster of licensed general contractors.

§87-9. Compliance with Federal Highway Act, etc.; contracts financed by federal road funds; contracts concerning water or waste water systems.

Nothing in this Article shall operate to prevent the Department of Transportation from complying with any act of Congress and any rules and regulations pursuant thereto for carrying out the provisions of the Federal Highway Act, or shall apply to any person, firm or corporation proposing to submit a bid or enter into contract for any work to be financed in whole or in part with federal aid road funds in such a manner as will conflict with any act of Congress or any such rules and regulations promulgated pursuant thereto.

Neither shall anything in this Article prevent the State of North Carolina or any of its political subdivisions or their contractors from complying with any act of Congress and any rules and regulations promulgated pursuant thereto for carrying out the provisions of any federal program to assist in the planning, financing, or construction of drinking water or waste water processing, collection, and disposal systems and facilities.

§87-9.1. Ownership of real property; equipment; liability insurance.

(a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(b) The Board may purchase or rent equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees.

§87-10. Application for license; examination; certificate; renewal.

(a) Anyone seeking to be licensed as a general contractor in this State shall submit an application. Before being entitled to an examination. An applicant shall:

- (1) Be at least 18 years of age.
- (2) Possess good moral character as determined by the Board.
- (3) Provide evidence of financial responsibility as determined by the Board.
- (4) Submit the appropriate application fee.

(a1) The Board shall require an applicant to pay the Board or a provider contracted by the Board an examination fee not to exceed one hundred (\$100.00). In addition, the Board shall require an applicant to pay the Board a fee not to exceed one hundred twenty-five dollars (\$125.00) if the application is for an unlimited license, one hundred dollars (\$100.00) if the application is for an intermediate license, or seventy-five dollars (\$75.00) if the application is for a limited license. The fees accompanying any application or examination shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to one million dollars (\$1,000,000), excluding the cost of land and any ancillary costs to improve the land; the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to five hundred thousand dollars (\$500,000), excluding the cost of land and any ancillary costs to improve the land. The license certificate shall be classified in accordance with this section.

(b) An applicant shall identify an individual who has successfully passed an examination approved by the Board who, for purposes of this section, shall be known as the “qualifier” or the “qualifying party” of the applicant. If the qualifier or the qualifying party seeks to take an examination the examination shall establish (i) the ability of the applicant to make a practical application of the applicant’s knowledge of the profession of contracting; (ii) the qualifications of the applicant in reading plans and specifications, knowledge of relevant matters contained in the North Carolina State Building Code, knowledge of estimating costs, construction, ethics, and other similar matters pertaining to the contracting business; (iii) the knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, construction, and liens; and (iv) the applicant’s knowledge of requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, and the rules adopted pursuant to that Article. If the qualifier or qualifying party passes the examination, upon review of the application and all relevant information, the Board shall issue a license to the applicant to engage in general contracting in the State of North Carolina, which may be limited as follows:

- (1) Building contractor, which shall include private, public, commercial, industrial and residential buildings of all types.
- (1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138.
- (2) Highway contractor.
- (3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities:
 - a. Water and sewer mains, water service lines, and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations.
 - b. Water and wastewater treatment facilities and appurtenances thereto.
 - c. Electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the customer.

- d. Public communication distribution facilities.
 - e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies.
- (4) Specialty contractor, which shall include those whose operations as such are the performance of construction work requiring special skill and involving the use of specialized building trades or crafts, but which shall not include any operations now or hereafter under the jurisdiction, for the issuance of license by any board or commission pursuant to the laws of the State of North Carolina.

(b1) Public utilities contractors constructing house and building sewer lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall, at the junction of the public sewer line and the house or building sewer line, install as an extension of the public sewer line a cleanout at or near the property line that terminates at or above the finished grade. Public utilities contractors constructing water service lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall terminate the water service lines at a valve, box, or meter at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code.

(c) If an applicant is an individual, examination may be taken by his personal appearance for examination, or by the appearance for examination of one or more of his responsible managing employees. If an applicant is a copartnership, a corporation, or any other combination or organization, the examination may be taken by one or more of the responsible managing officers or members of the personnel of the applicant.

(c1) If the qualifier or qualifying party shall cease to be connected with the licensee, then the license shall remain in full force and effect for a period of 90 days. After 90 days, the license shall be invalidated, however the licensee shall be entitled to return to active status pursuant to all relevant statutes and rules promulgated by the Board. However, during the 90-day period described in this subsection, the licensee shall not bid on or undertake any additional contracts from the time such qualifier or qualifying party ceased to be connected with the licensee until the license is reinstated as provided in this Article.

(d) The Board may require a new application if a qualifier or qualifying party requests to take an examination a third or subsequent time.

(e) A license shall expire on the first day of January following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewal applications shall be submitted with a fee not to exceed one hundred twenty-five dollars (\$125.00) for an unlimited license, one hundred dollars (\$100.00) for an intermediate license, and seventy-five dollars (\$75.00) for a limited license. Renewal applications shall be accompanied by evidence of continued financial responsibility satisfactory to the Board. Renewal applications received by the Board on or after the first day of January shall be accompanied by a late payment of ten dollars (\$10.00) for each month or part after January.

(f) After a license has been inactive for four years, a licensee shall not be permitted to renew the license, and the license shall be deemed archived. If a licensee wishes to be relicensed subsequent to the archival of the license, the licensee shall fulfill all requirements of a new applicant as set forth in this section. Archived licensed numbers shall not be renewed.

SECTION 2.13.(b) This Section becomes effective October 1, 2017, and applies to all applications for licensure submitted on or after that date.

§87-10.1. Licensing of nonresidents.

(a) Definitions. The following definitions apply in this section:

- (1) Delinquent income tax debt. The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.
- (2) Foreign corporation—Defined in G.S. 55 1-40.
- (3) Foreign entity—A foreign corporation, a foreign limited liability company, or a foreign partnership.
- (4) Foreign limited liability company—Defined in G.S. 57C 1-03.
- (5) Foreign partnership—Either of the following that does not have a permanent place of business in this State:
 - a. A foreign limited partnership as defined in G.S. 59-102.
 - b. A general partnership formed under the laws of a jurisdiction other than this State.

(b) Licensing. The Board shall not issue a certificate of license for a foreign corporation unless the corporation has obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a certificate of license for a foreign limited liability company unless the company has obtained a certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of the General Statutes.

(c) Information. Upon request, the Board shall provide the Secretary of Revenue on an annual basis the name, address, and tax identification number of every non-resident individual and foreign entity licensed by the Board. The information shall be provided in the format required by the Secretary of Revenue.

(d) Delinquents. If the Secretary of Revenue determines that any nonresident individual or foreign corporation licensed by the Board, a member of any foreign limited liability company licensed by the Board, or a partner in any foreign partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of these nonresident individuals and foreign entities and instruct the Board not to renew their certificates of license. The Board shall not renew the certificate of license of such nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that the debt either has been paid or is being paid pursuant to an installment agreement.

§87-11. Revocation of license; charges of fraud, negligence, incompetency, etc.; hearing thereon; reissuance of certificate.

(a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or restrict a certificate of license or to issue a reprimand or take other disciplinary action if a general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining a license, or gross negligence, incompetency, or misconduct in the practice of his or her profession, or willful violation of any provision of this Article. The Board shall also have the power to revoke, suspend, or otherwise

restrict the ability of any person to act as a qualifying party for a license to practice general contracting, as provided in G.S. 87-10(c), for any copartnership, corporation or any other organization or combination, if that person committed any act in violation of the provisions of this section and the Board may take disciplinary action against the individual license held by that person.

(a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against any general contractor licensed under this Article. The charges shall be in writing and sworn to by the complainant and submitted to the Board. The charges, unless dismissed without hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The Board shall adopt and publish guidelines, consistent with the provisions of this Article, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee. This record shall include, for each licensee, the date and nature of each complaint, investigatory action taken by the Board, any findings by the Board, and the disposition of the matter.

(d) The Board may reissue a license to any person, firm, or corporation whose license has been revoked: Provided, five or more members of the Board vote in favor of such reissuance for reasons the Board may deem sufficient.

The Board shall immediately notify the Secretary of State of its findings in the case of the revocation of a license or of the reissuance of a revoked license.

A certificate of license to replace any certificate lost, destroyed or mutilated may be issued subject to the rules and regulations of the Board.

(e) The Board shall be entitled to recover its reasonable administrative costs associated with the investigation and prosecution of a violation of this Article or rules or regulations of the Board up to a maximum of five thousand dollars (\$5,000) for any licensee or qualifying party found to have committed any of the following:

- (1) Fraud or deceit in obtaining a license.
- (2) Gross negligence, incompetency, or misconduct in the practice of general contracting.
- (3) Willful violation of any provision of this Article.

§87-12. Certificate evidence of license.

The issuance of a certificate of license or limited license by this Board shall be evidence that the person, firm, or corporation named therein is entitled to all the rights and privileges of a licensed or limited licensed general contractor while said license remains unrevoked or unexpired. A licensed general contractor holding a license which qualifies him for work as described in G.S. 87-10 shall be authorized to perform the said work without any additional occupational license, notwithstanding the provisions of any other occupational licensing statute. A license issued by another occupational licensing board having jurisdiction over any work described in G.S. 87-10 shall qualify such licensee to perform the work for which the license qualifies him without obtaining the license from the General Contractors Licensing Board. Nothing contained herein shall operate to relieve any general contractor from the necessity of compliance with other provisions of the law requiring building permits and construction in accordance with appropriate provisions of the North Carolina State Building Code.

- §87-13. Unauthorized practice of contracting; impersonating contractor; false certificate; giving false evidence to Board; penalties.
- Any person, firm, or corporation not being duly authorized who shall contract for or bid upon the construction of any of the projects or works enumerated in G.S. 87-1, without having first complied with the provisions hereof, or who shall attempt to practice general contracting in the State, except as provided for in this Article, and any person, firm, or corporation presenting or attempting to file as his own the licensed certificate of another or who shall give false or forged evidence of any kind to the Board or to any member thereof in maintaining a certificate of license or who falsely shall impersonate another or who shall use an expired or revoked certificate of license, and any architect or engineer who recommends to any project owner the award of a contract to anyone not properly licensed under this Article, shall be deemed guilty of a Class 2 misdemeanor. And the Board may, in its discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of any violations of this Article. No architect or engineer shall be guilty of a violation of this section if his recommendation to award a contract is made in reliance upon current written information received by him from the appropriate Contractor Licensing Board of this State which information erroneously indicates that the contractor being recommended for contract award is properly licensed.
- §87-13.1. Board may seek injunctive relief.
- Whenever the Board determines that any person, firm or corporation has violated or is violating any of the provisions of this Article or rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the violation; and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation. The court may award the Board its reasonable costs associated with the investigation and prosecution of the violation.
- §87-14. Regulations as to issue of building permits.
- (a) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost thereof is to be thirty thousand dollars (\$30,000) or more, shall, before being entitled to the issuance of a permit, satisfy the following:
- (1) Furnish satisfactory proof to the inspector or authority that the person seeking the permit or another person contracting to superintend or manage the construction is duly licensed under the terms of this Article to carry out or superintend the construction or is exempt from licensure under G.S. 87-1(b). If an applicant claims an exemption from licensure pursuant to G.S.87-1(b)(2), the applicant for the building permit shall execute a verified affidavit attesting to the following:
 - a. That the person is the owner of the property on which the building is being constructed or, in the case of a firm or corporation, is legally authorized to act on behalf of the firm or corporation.
 - b. That the person will personally superintend and manage all aspects of the construction of the building and that the duty will not be delegated to any other person not duly licensed under the terms of this Article.
 - c. That the person will be personally present for all inspections required by the North Carolina State Building Code, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

The building inspector or other authority shall transmit a copy of the affidavit to the Board, who shall verify that the applicant was validly entitled to claim the exemption under G.S. 87-1(b)(2). If the Board determines that the applicant was not entitled to claim the exemption under G.S. 87-1(b)(2), the building permit shall be revoked pursuant to G.S. 153A-362 or G.S.160A-422.

- (2) Furnish proof that the person has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes.
- (3) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building permits pursuant to G.S. 160A-417(a)(1) or G.S. 153A-357(a)(1) for any improvements for which the combined cost is to be thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, shall be required to provide to the building inspector or other authority the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a).

(b) It shall be unlawful for the building inspector or other authority to issue or allow the issuance of a building permit pursuant to this section unless and until the applicant has furnished evidence that the applicant is either exempt from the provisions of this Article and, if applicable, fully complied with the provisions of subdivision (a)(1) of this section, or is duly licensed under this Article to carry out or superintend the work for which permit has been applied; and further, that the applicant has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes. Any building inspector or other authority who is subject to and violates the terms of this section shall be guilty of a Class 3 misdemeanor and subject only to a fine of not more than fifty dollars (\$50.00).

§87-15. Copy of Article included in specifications, bid not considered unless contractor licensed.

All architects and engineers preparing plans and specifications for work to be contracted in the State of North Carolina shall include in their invitations to bidders and in the specifications a copy of this Article or such portions thereof as are deemed necessary to convey to the invited bidder, whether he be a resident or nonresident of this State and whether a license has been issued to him or not, the information that it will be necessary for him to show evidence of a license before his bid is considered.

§87-15.1. Reciprocity of licensing.

To the extent that other states which provide for the licensing of general contractors provide for similar action, the Board in its discretion may grant licenses of the same or equivalent classification to general contractors licensed by other states, without written examination upon satisfactory proof furnished to the Board that the qualifications of such applicants are equal to the qualifications of holders of similar licenses in North Carolina and upon payment of the required fee.

§87-15.2. Public awareness program.

The Board shall establish and implement a public awareness program to inform the general public of the purpose and function of the Board.

§87-15.3. Identity of complaining party confidential.

Once a complaint has been filed with the Board against a licensee or an unlicensed general contractor, the Board may, in its discretion, keep the identity of a complaining party confidential and not a public record within the meaning of Chapter 132 of the General Statutes until a time no later than the receipt of the complaint by the full Board for a disciplinary hearing or injunctive action.

§87-15.4. Builder designations created.

(a) A licensee who successfully completes the educational requirements for accredited builder or accredited master builder, as established by the North Carolina Builders Institute (Institute), shall be designated by the Board as a “North Carolina Certified Accredited Residential Builder” or “North Carolina Certified Accredited Master Residential Builder,” respectively. The Institute shall provide to the Board written certification of those licensees who have successfully completed the requirements for the designations. The certification shall remain in effect as long as: (i) the licensee’s license is in effect pursuant to G.S. 87-10; and (ii) the licensee completes at least eight hours of continuing education each calendar year as certified by the Institute.

(b) The Board shall approve for designation a licensee who has successfully completed a course of study, deemed by the Board to be equivalent to the educational requirements under subsection (a) of this section, offered by a community college or by another provider, and who completes the requisite number of hours of continuing education required by the Board.

(c) The Board may use all powers granted to it under this Article to enforce the provisions of this section and ensure that the designations created by this section are conferred upon and used only by a licensee who complies with the provisions of this section and any rules adopted by the Board.

SECTION 2. Any individual currently licensed by the State Licensing Board of General Contractors (Board) who has successfully completed the requirements of G.S. 87-15.4, as enacted by Section 1 of this act, before the effective date of this act may be designated by the Board as a “North Carolina Certified Accredited Residential Builder” or “North Carolina Certified Accredited Master Residential Builder” upon submitting to the Board certification from the North Carolina Builders Institute of successful completion of the requirements of G.S. 87-15.4.

ARTICLE 1A. HOMEOWNERS RECOVERY FUND

§87-15.5. Definitions

The following definitions apply in this Article:

- (1) Applicant.—The owner or former owner of a single-family residential dwelling unit who has suffered a reimbursable loss and has filed an application for reimbursement from the Fund.
- (2) Board.—The State Licensing Board for General Contractors.
- (3) Dishonest conduct.—Fraud or deceit in either of the following:
 - (a) Obtaining a license under Article 1 of Chapter 87 of the General Statutes.
 - (b) The practice of general contracting by a general contractor.
- (4) Fund.—The Homeowners Recovery Fund.
- (5) General contractor.—A person or other entity who meets any of the following descriptions:
 - (a) Is licensed under Article 1 of Chapter 87 of the General Statutes
 - (b) Fraudulently procures any building permit by presenting the license certificate of a general contractor.
 - (c) Fraudulently procures any building permit by falsely impersonating a licensed general contractor.
- (6) Reimbursable loss.—A monetary loss that meets all of the following requirements:
 - (a) Results from dishonest or incompetent conduct by a general contractor in constructing or altering a single-family residential dwelling unit.
 - (b) Is not paid, in whole or in part, by or on behalf of the general contractor whose conduct caused the loss.
 - (c) Is not covered by a bond, a surety agreement, or an insurance contract.
- (7) Single-family residential dwelling unit.—A separately owned residence for use of one or more persons as a housekeeping unit with space for eating, living, and permanent provisions for cooking and sanitation, whether or not attached to other such residences.

§87-15.6. Homeowners Recovery Fund

- (a) The Homeowners Recovery Fund is established as a special account of the Board. The Board shall administer the Fund. The purpose of the Fund is to reimburse homeowners who have suffered a reimbursable loss in constructing or altering a single-family residential dwelling unit.
- (b) Whenever a general contractor applies for the issuance of a permit for the construction of any single-family residential dwelling unit or for the alteration of an existing single-family residential dwelling unit, a city or county building inspector shall collect from the general contractor a fee in the amount of ten dollars (\$10.00) for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward nine dollars (\$9.00) of each fee collected to the Board on a quarterly basis and the city or county may retain one dollar (\$1.00) of each fee collected. The Board shall deposit the fees received into the Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not apply to the Fund.

The Board may suspend collection of this fee for any year upon a determination that the amount in the Fund is sufficient to meet likely disbursements from the

Fund for that year. The Board shall notify city and county building inspectors when it suspends collection of the fee.

(c) The Board may adopt rules to implement this Article.

§87-15.7. Fund Administration

(a) The Board shall determine the procedure for applying to the Board for reimbursement from the Fund, for processing applications, for granting requests for reimbursement, and for the subrogation or assignment of the rights of any reimbursed applicant. The Board shall submit annually a report to the State Treasurer accounting for all monies credited to and expended from the Fund.

(b) The Board may use monies in the Fund only for the following purposes:

- (1) To reimburse an applicant's reimbursable loss after approval by the Board.
- (2) To purchase insurance to cover reimbursable losses when the Board finds it appropriate to do so.
- (3) To invest amounts in the Fund that are not currently needed to reimburse losses and maintain adequate reserves in the manner in which State law allows fiduciaries to invest funds.
- (4) To pay the expenses of the Board to administer the Fund, including employment of counsel to prosecute subrogation claims.

§87-15.8. Application for reimbursement

(a) The Board shall prepare a form to be used to apply for reimbursement from the Fund. Only a person whom the Board determines to meet all of the following requirements may be reimbursed from the Fund:

- (1) Has suffered a reimbursable loss in the construction or alteration of a single-family residential dwelling unit owned or previously owned by that person.
- (2) Did not, directly or indirectly, obtain the building permit in the person's own name or did use a general contractor.
- (3) Has exhausted all civil remedies against the general contractor whose conduct caused the loss and, if applicable, the general contractor's estate, and has obtained a judgment against the general contractor that remains unsatisfied. This requirement is waived if the person is prevented from filing suit or obtaining a judgment against the contractor due to the automatic stay provision of section 362 of the U.S. Bankruptcy Code.
- (4) Has complied with the applicable rules of the Board.

(b) The Board shall investigate all applications for reimbursement and may reject or allow part or all of a claim based on the amount of money in the Fund. The Board shall have complete discretion to determine the order, amount, and manner of payment of approved applications. All payments are a matter of privilege and not of right and no person has a right to reimbursement from the Fund as a third party beneficiary or otherwise. No attorney shall be compensated by the Board for prosecuting an application before it.

§87-15.9. Subrogation for reimbursement made

The Board is subrogated to an applicant who is reimbursed from the Fund in the amount reimbursed and may bring an action against the general contractor whose conduct caused the reimbursable loss, the general contractor's assets, or the general contractor's estate. The Board may enforce any claims it may have for restitution or otherwise, and may employ and compensate consultants, agents, legal counsel, and others it finds necessary and appropriate to carry out its authority under this section.

Sec. 2 This act becomes effective October 1, 1991, and applies to reimbursable losses caused by the dishonest or incompetent conduct of a general contractor that occurs on or after that date.

OTHER GENERAL STATUTES

- §14-401.1. Misdemeanor to tamper with examination questions
- Any person who, without authority of the entity who prepares or administers the examination, purloins, steals, buys, receives, or sells, gives or offers to buy, give, or sell any examination questions or copies thereof of any examination provided and prepared by law shall be guilty of a Class 2 misdemeanor. (1917, C. 146, s. 10; C.S., s. 5658; 1969, c. 1224, s. 3; 1991, c.360, s. 2; 1993, c. 539, s. 271; 1994, Ex. Sess., C. 24, s. 14(c).)
- §22C-2. Performance by subcontractor
- Performance by a subcontractor in accordance with the provisions of its contract shall entitle it to payment from the party with whom it contracts. Payment by the owner to a contractor is not a condition precedent for payment to a subcontractor and payment by a contractor to a subcontractor is not a condition precedent for payment to any other subcontractor, and an agreement to the contrary is unenforceable. (1987 (Reg. Sess., 1988), c. 946; 1991, c. 620.)
- §93B-1. Definitions
- As used in this Chapter: “License” means any license (other than a privilege license), certificate, or other evidence of qualification which an individual is required to obtain before he may engage in or represent himself to be a member of a particular profession or occupation. “Occupational licensing board” means any board, committee, commission, or other agency in North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses; “occupational licensing board” does not include State agencies, staffed by full-time State employees, which as a part of their regular functions may issue licenses.
- §93B-3. Register of Persons licensed; information as to licensed status of individuals
- Each occupational licensing board shall prepare a register of all persons currently licensed by the board and shall supplement said register annually by listing the changes made in it by reason of new licenses issued, licenses revoked or suspended, death, or any other cause. The board shall, upon request of any citizen of the State, inform the requesting person as to the licensed status of any individual.
- §93B-4. Audit of occupational licensing boards; payment of costs
- (a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7
- (b) The State Auditor may contract with independent professionals to meet the requirements of this section. (b) Each occupational licensing board with a budget of at least fifty thousand dollars (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor.
- §93B-8. Examination Procedures
- (a) Each applicant for an examination given by any occupational licensing board shall be informed in writing or print of the required grade for passing the examination prior to the taking of such examination.
- (b) Each applicant for an examination given by any occupational licensing board shall be identified, for purposes of the examination, only by number rather than by name.
- (c) Each applicant who takes an examination given by any occupational licensing board, and does not pass such examination, shall have the privilege to review his examination in the presence of the board or a representative of the board. Except as

provided in this subsection, an occupational licensing board shall not be required to disclose the contents of any examination or of any questions which have appeared thereon, or which may appear thereon in the future.

(d) Notwithstanding the provisions of this section, under no circumstances shall an occupational licensing board be required to disclose to an applicant questions or answers to tests provided by recognized testing organizations pursuant to contracts which prohibit such disclosures.

§93B-8.1 Use of Criminal History Records

(a) The following definitions apply in this section:

- (1) Applicant.—A person who makes application for licensure from an occupational licensing board.
- (2) Board.—An occupational licensing board as defined in G.S. 93B-1.
- (3) Criminal history record.—A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or a licensee's fitness to be licensed or disciplined.
- (4) Licensee.—A person who has obtained a license to engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) Unless the law governing a particular occupational licensing board provides otherwise, a board shall not automatically deny licensure on the basis of an applicant's criminal history. If the board is authorized to deny a license to an applicant on the basis of conviction of any crime or for commission of a crime involving fraud or moral turpitude, and the applicant's verified criminal history record reveals one or more convictions of any crime, the board may deny the license if it finds that denial is warranted after consideration of the following factors:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the crime.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.
- (7) The subsequent commission of a crime by the applicant.
- (8) Any affidavits or other written documents, including character references.

(c) The board may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

(d) This section does not apply to The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission.

§93B-8.2 Prohibit licensees from serving as investigators

No occupational licensing board shall contract with or employ a person licensed by the board to serve as an investigator or inspector if the licensee is actively practicing in the profession or occupation and is in competition with other members of the profession or occupation over which the board has jurisdiction. Nothing in this section shall prevent a board from (i) employing licensees who are not otherwise

employed in the same profession or occupation as investigators or inspectors or for other purposes or (ii) contracting with licensees of the board to serve as expert witnesses or consultants in cases where special knowledge and experience is required, provided that the board limits the duties and authority of the expert witness or consultant to serving as an information resource to the board and board personnel.

§93B-9. Age Requirement

Except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license with the following exceptions: the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission may establish a higher age as a requirement for holding certification through either Commission.

§93B-13. Revocation when licensing privilege forfeited for nonpayment of child support or for failure to comply with subpoena

(a) Upon receipt of a court order, pursuant to G.S. 50-13.12 and G.S. 110-142.1, revoking the occupational license of a licensee under its jurisdiction, an occupational licensing board shall note the revocation in its records, report the action within 30 days to the Department of Health and Human Services, and follow the normal post revocation rules and procedures of the board as if the revocation had been ordered by the board. The revocation shall remain in effect until the board receives certification by the clerk of superior court or the Department of Health and Human Services in an IV-D case that the licensee is no longer delinquent in child support payments, or, as applicable, that the licensee is in compliance with or is no longer subject to the subpoena that was the basis for the revocation.

(b) Upon receipt of notification from the Department of Health and Human Services that a licensee under an occupational licensing board's jurisdiction has forfeited the licensee's occupational license pursuant to G.S. 110-142.1, then the occupational licensing board shall send a notice of intent to revoke or suspend the occupational license of that licensee as provided by G.S. 110-142.1(d). If the license is revoked as provided by the provisions of G.S. 110-142.1, the revocation shall remain in effect until the board receives certification by the designated representative or the child support enforcement agency that the licensee is no longer delinquent in child support payments, or, as applicable, that the licensee is in compliance with or no longer subject to a subpoena that was the basis for the revocation.

(c) If at the time the court revokes a license pursuant to subsection (a) of this section, or if at the time the occupational licensing board revokes a license pursuant to subsection (b) of this section, the occupational licensing board has revoked the same license under the licensing board's disciplinary authority over licensees under its jurisdiction, and that revocation period is greater than the revocation period resulting from forfeiture pursuant to G.S. 50-13.12 or G.S. 110-142.1 then the revocation period imposed by the occupational licensing board applies.

(d) Immediately upon certification by the clerk of superior court or the child support enforcement agency that the licensee whose license was revoked pursuant to subsection (a) or (b) of this section is no longer delinquent in child support payments, the occupational licensing board shall reinstate the license. Immediately upon certification by the clerk of superior court or the child support enforcement agency that the licensee whose license was revoked because of failure to comply with a subpoena is in compliance with or no longer subject to the subpoena, the

occupational licensing board shall reinstate the license. Reinstatement of a license pursuant to this section shall be made at no additional cost to the licensee.

§93B-14. Information on applicants for licensure

Every occupational licensing board shall require applicants for licensure to provide to the Board the applicant's social security number. This information shall be treated as confidential and may be released only as follows:

- (1) To the State Child Support Enforcement Program of the Department of Health and Human Services upon its request and for the purpose of enforcing a child support order.
- (2) To the Department of Revenue for the purpose of administering the State's tax laws.

§93B-15 Payment of License fees by members of the Armed Forces; board waiver rules

(a) An individual who is serving in the Armed Forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax.

(b) Occupational licensing boards shall adopt rules to postpone or waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating to the maintenance of licensure by an individual who is currently licensed by and in good standing with the board, is serving in the Armed Forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

§93B-15.1. Licensure for individuals with military training and experience; proficiency examination; licensure by endorsement for military spouses; temporary license

(a) Except as provided by subsection (a2) of this section, and notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-I, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

- (1) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the occupational licensing board from which the applicant is seeking licensure, certification, or registration in this State: completed a military program of training, completed testing or equivalent training and experience as determined by the board, and performed in the occupational specialty.
- (2) Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the occupational licensing board in this State for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(a1) No later than 30 days following receipt of an application, an occupational licensing board shall notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and shall specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination.

(a2) An occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if the military-trained applicant, upon application to the occupational licensing board:

- (1) Presents official, notarized documentation, such as a U.S. Department of Defense Form 214 (DD-214), or similar substantiation, attesting to the applicant's military occupational specialty certification and experience in an occupational field within the board's purview: and
- (2) Passes a proficiency examination offered by the board to military-trained applicants in lieu of satisfying the conditions set forth in subsection (a) of this section: however, if an applicant fails the proficiency examination, then the applicant may be required by the board to satisfy those conditions.

In any case where a proficiency examination is not offered routinely by an occupational licensing board, the board shall design a fair proficiency examination for military-trained applicants to obtain licensure, certification, or registration under this section. If a proficiency examination is offered routinely by an occupational licensing board, that examination shall satisfy the requirements of this section.

(b) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in this State if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.
- (2) Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit.
- (5) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(c) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including fulltime and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) or (b) of this section.

(c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by

the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the North Carolina Division of Veterans Affairs.

(d) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by an occupational licensing board in this State.

(e) Nothing in this section shall be construed to apply to the practice of law as regulated under Chapter 84 of the General Statutes.

(f) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or a military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupational licensing board in this State. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification, or registration is granted or until a notice to deny a license, certification, or registration is issued in accordance with rules adopted by the occupational licensing board.

(g) An occupational licensing board may adopt rules necessary to implement this section. Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification, or registration requirements established by an occupational licensing board in this State.

(h) For the purposes of this section, the State Board of Education shall be considered an occupational licensing board when issuing teacher licenses under G.S.115C-296.

(i) For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board.

(j) For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board.

§136-28.14. Project contractor
licensing
requirements

(See also Exception at
G.S. §87-1.2)

The letting of contracts under this Chapter for the following types of projects shall not be subject to the licensing requirements of Article 1 of Chapter 87 of the General Statutes:

- (1) Routine maintenance and minor repair of pavements, bridges, roadside vegetation and plantings, drainage systems, concrete sidewalks, curbs, gutters, and rest areas.
- (2) Installation and maintenance of pavement markings and markers, ground mounted signs, guardrail, fencing, and roadside vegetation and plantings.

§153A-360. Inspections of
work in progress

Subject to the limitation imposed by G.S. 153A-352(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of

the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes. (1969, c. 1066, s. 1; 1973, c. 822, s. 1; 2011-376, s. 3; 2015-145, s. 1(a).)

§160A-420. Inspections of
work in progress

Subject to the limitation imposed by G.S. 160A-412(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes. (1969, c. 1065, s. 1; 1971, c. 698, s. 1; 2011-376, s. 4; 2015-145, s. 1(b).)

RULES & REGULATIONS

North Carolina Licensing Board for General Contractors NORTH CAROLINA ADMINISTRATIVE CODE

Title 21; Chapter 12

Statutory Authority;
Chapter 87,
Section 1-15.9,
and Chapter 150B(3)
of the General Statutes
of North Carolina

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SECTION .0100 — ORGANIZATION OF BOARD

- .0101 Identification** The State Licensing Board for General Contractors, hereinafter referred to as the “North Carolina Licensing Board for General Contractors” or “the Board,” is located in Raleigh, North Carolina; its mailing address is 5400 Creedmoor Road, Raleigh, North Carolina 27612. The Board website is www.nclbgc.org.
- History Note: Authority G.S. 87 2; Eff. February 1, 1976; Amended Eff. June 23, 1977; Readopted Eff. September 26, 1977; Amended Eff. December 1, 1985; January 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.*
- .0102 General Purpose of Board** (a) The purpose of the Board is to regulate persons who engage in activities which constitute the practice of general contracting as defined in G.S. 87-1 in order to safeguard the life, health and property of the people of North Carolina as well as promote the public welfare.
- (b) The Board regulates the practice of general contracting by:
- (1) determining the qualifications of persons seeking to enter the practice of general contracting and granting to those persons who have met the statutory requirements the privilege of entering the practice of general contracting;
 - (2) enforcing the provisions of the North Carolina General Statutes pertaining to general contractors; and
 - (3) enforcing the Board’s Rules, which are designed to ensure a high degree of competence in the practice of general contracting.
- History Note: Authority G.S. 87-1; 87-2; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989.*
- .0103 Structure of Board** (a) Officers. Annually, during the April meeting, the Board shall elect from its members a Chairman and Vice-Chairman. The Chairman shall preside over all meetings of the Board and perform other duties as he or she may be directed to do by the Board. The Vice-Chairman shall function as Chairman if the Chairman is unavailable.
- (b) Secretary-Treasurer. In addition to those duties and responsibilities required of him or her by G.S. 87-8, the Secretary-Treasurer, referred to as “Secretary-Treasurer” or “Executive Director,” as the Board’s Chief Administrative Officer, has the responsibility and power to:
- (1) employ the clerical and legal services necessary to assist the Board in carrying out the requirements of the North Carolina General Statutes;
 - (2) purchase or rent whatever office equipment, stationery, or other miscellaneous articles as are necessary to keep the records of the Board;
 - (3) make expenditures from the funds of the Board by signing checks, or authorizing the designee of the Secretary-Treasurer to sign checks, for expenditures after the checks are signed by the Chairman or Vice-Chairman; and
 - (4) do such other acts as may be required of him or her by the Board.
- (c) Official Meetings of the Board.

- (1) Regular Meetings. Regular meetings shall be held during January, April, July and October of each year at the Board's office or at any other place so designated by the Board.
- (2) Special Meetings. Special meetings shall be called and conducted in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes.
- (3) Notice of Meetings. Notice of all official meetings of the Board shall be given pursuant to Article 33C of Chapter 143 of the North Carolina General Statutes.

History Note: Authority G.S. 87-2; 87-4; 87-6; 87-7; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2014; August 1, 2002; January 1, 1992; May 1, 1989; January 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

SECTION .0200 — LICENSING REQUIREMENTS

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| .0201 | General | <p><i>History Note: Authority G.S. 87-1; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1983; Repealed Eff. May 1, 1989.</i></p> |
| .0202 | Classification | <p>(a) A general contractor shall be certified in one of the following five classifications:</p> <ol style="list-style-type: none"> (1) Building Contractor. This classification covers all building construction activity including: commercial, industrial, institutional, and all residential building construction. It includes parking decks; all site work, grading and paving of parking lots, driveways, sidewalks, and gutters; storm drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor recreational facilities including natural and artificial surface athletic fields, running tracks, bleachers, and seating. It also covers work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Marine Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming Pools), and S(Asbestos), and S(Wind Turbine). (2) Residential Contractor. This classification covers all construction activity pertaining to the construction of residential units that are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways, sidewalks, and water and wastewater systems ancillary to the aforementioned structures and improvements; and the work done as part of such residential units under the specialty classifications of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming Pools), and S(Asbestos). (3) Highway Contractor. This classification covers all highway construction activity including: grading, paving of all types, installation of exterior artificial athletic surfaces, relocation of public and private utility lines ancillary to a principal project, bridge construction and repair, culvert construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also includes installation and erection of guard rails, fencing, signage and ancillary highway hardware; covers paving and grading of airport and airfield runways, taxiways, and aprons, including the installation of fencing, signage, runway lighting and marking; and |

work done under the specialty classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine Construction), S(Railroad Construction), and H(Grading and Excavating).

- (4) Public Utilities Contractor. This classification includes operations that are the performance of construction work on water and wastewater systems and on the subclassifications of facilities set forth in G.S. 87-10(b)(3). The Board shall issue a license to a public utilities contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the contractor qualifies. A public utilities contractor license covers work done under the specialty classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution), PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water Purification and Sewage Disposal), and S(Swimming Pools).
- (5) Specialty Contractor. This classification covers all construction operation and performance of contract work outlined as follows:
 - (A) H(Grading and Excavating). This classification covers the digging, moving, and placing of materials forming the surface of the earth, excluding air and water, in such a manner that the cut, fill, excavation, grade, trench, backfill, or any similar operation may be executed with the use of hand and power tools and machines used for these types of digging, moving, and material placing. It covers work on earthen dams and the use of explosives used in connection with all or any part of the activities described in this Subparagraph. It also includes clearing and grubbing, and erosion control activities.
 - (B) S(Boring and Tunneling). This classification covers the construction of underground or underwater passageways by digging or boring through and under the earth's surface, including the bracing and compacting of such passageways to make them safe for the purpose intended. It includes preparation of the ground surfaces at points of ingress and egress.
 - (C) PU (Communications). This classification covers the installation of the following:
 - (i) all types of pole lines, and aerial and underground distribution cable for telephone systems;
 - (ii) aerial and underground distribution cable for cable TV and master antenna TV systems capable of transmitting R.F. signals;
 - (iii) underground conduit and communication cable including fiber optic cable; and
 - (iv) microwave systems and towers, including foundations and excavations where required, when the microwave systems are being used for the purpose of transmitting R.F. signals; and installation of PCS or cellular telephone towers and sites.
 - (D) S(Concrete Construction). This classification covers the construction and installation of foundations, pre-cast silos, and other concrete tanks or receptacles, prestressed components, and guniting applications, but excludes bridges, streets, sidewalks, curbs, gutters, driveways, parking lots, and highways.
 - (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction, installation, alteration, maintenance, or repair of

an electrical wiring system, including sub-stations or components thereof, which is or is intended to be owned, operated, and maintained by an electric power supplier, such as a public or private utility, a utility cooperative, or any other properly franchised electric power supplier, for the purpose of furnishing electrical services to one or more customers.

- (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration, maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates, natural gas, chemicals, and slurries through pipeline from one station to another. It includes all excavating, trenching, and backfilling in connection therewith. It covers the installation, replacement, and removal of above ground and below ground fuel storage tanks.
- (G) PU(Water Lines and Sewer Lines). This classification covers construction work on water and sewer mains, water service lines, and house and building sewer lines, as defined in the North Carolina State Building Code, and covers water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations and pumping stations. It includes pavement patching, backfill, and erosion control as part of construction.
- (H) PU(Water Purification and Sewage Disposal). This classification covers the performance of construction work on water and wastewater systems; water and wastewater treatment facilities; and all site work, grading, and paving of parking lots, driveways, sidewalks, and curbs and gutters that are ancillary to such construction of water and wastewater treatment facilities. It covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), and S(Metal Erection) as part of the work on water and wastewater treatment facilities.
- (I) S(Insulation). This classification covers the installation, alteration, or repair of materials classified as insulating media used for the non-mechanical control of temperatures in the construction of residential and commercial buildings. It does not include the insulation of mechanical equipment, and ancillary lines and piping.
- (J) S(Interior Construction). This classification covers the installation of acoustical ceiling systems and panels, partitions (load bearing and non-load bearing), lathing and plastering, flooring and finishing, interior recreational surfaces, window and door installation, and installation of fixtures, cabinets, and millwork. It includes the removal of asbestos and replacement with non-toxic substances.
- (K) S(Marine Construction). This classification covers all marine construction and repair activities and all types of marine construction in deep-water installations and in harbors, inlets, sounds, bays, and channels; it covers dredging, construction, and installation of pilings, piers, decks, slips, docks, and bulkheads. It does not include structures required on docks, slips, and piers.
- (L) S(Masonry Construction). This classification covers the installation, with or without the use of mortar or adhesives, of the following:

- (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight and facsimile units and products common to the masonry industry;
 - (ii) installation of fire clay products and refractory construction; and
 - (iii) installation of rough cut and dressed stone, marble panels and slate units, and installation of structural glazed tile or block, glass brick or block, and solar screen tile or block.
- (M) S(Railroad Construction). This classification covers the building, construction, and repair of railroad lines including:
- (i) the clearing and filling of rights-of-way;
 - (ii) shaping, compacting, setting, and stabilizing of road beds;
 - (iii) setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal markers, retaining walls, dikes, fences, and gates; and
 - (iv) construction and repair of tool sheds and platforms.
- (N) S(Roofing). This classification covers the installation and repair of roofs and decks on residential, commercial, industrial, and institutional structures requiring materials that form a water-tight and weather-resistant surface. The term "materials" for purposes of this Subparagraph includes cedar, cement, asbestos, clay tile and composition shingles, all types of metal coverings, wood shakes, single ply and built-up roofing, protective and reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and downspouts, and bituminous waterproofing.
- (O) S(Metal Erection). This classification covers:
- (i) the field fabrication, erection, repair, and alteration of architectural and structural shapes, plates, tubing, pipe and bars, not limited to steel or aluminum, that are or may be used as structural members for buildings, equipment, and structure; and
 - (ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any manner metal products as curtain walls, tanks of all types, hoppers, structural members for buildings, towers, stairs, conveyor frames, cranes and crane runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire escapes, and seating for stadiums, arenas, and auditoriums.
- (P) S(Swimming Pools). This classification covers the construction, service, and repair of all swimming pools. It includes:
- (i) excavation and grading;
 - (ii) construction of concrete, gunite, and plastic-type pools, pool decks, and walkways, and tiling and coping; and
 - (iii) installation of all equipment including pumps, filters, and chemical feeders. It does not include direct connections to a sanitary sewer system or to portable water lines, nor the grounding and bonding of any metal surfaces or the making of any electrical connections.

(Q) S(Asbestos). This classification covers renovation or demolition activities involving the repair, maintenance, removal, isolation, encapsulation, or enclosure of Regulated Asbestos Containing Materials (RACM) for any commercial, industrial, or institutional building, whether public or private. It also covers all types of residential building construction involving RACM during renovation or demolition activities.

(R) S(Wind Turbine). This classification covers the construction, installation, and repair of wind turbines, wind generators, and wind power units. It includes assembly of blades, generator, turbine structures, and towers. It also includes ancillary foundation work, field fabrication of metal equipment, and structural support components.

(b) An applicant may be licensed in more than one classification of general contracting provided the applicant meets the qualifications for the classifications, which includes passing the examinations for the classifications in question. The license granted to an applicant who meets the qualifications for all of the classifications set forth in the rules of this Section shall be designated “unclassified.”

History Note: Authority G.S. 87-1; 87-4; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983; Temporary Amendment Eff. February 18, 1997; Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0203 **Limitaton of License**

History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1983; Repealed Eff. May 1, 1989.

.0204 **Eligibility.**

(a) All licenses shall have an appropriate limitation as set forth in this Rule.

(b) Limited License. The applicant for a limited license shall:

- (1) meet the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) be financially stable to the extent that the total current assets of the applicant or the firm or corporation he or she represents exceed the total current liabilities by at least seventeen thousand dollars (\$17,000) or the total net worth of the applicant or firm is at least eighty thousand dollars (\$80,000);
- (3) pass the examination which shall contain subject matter related to the specific contracting classification chosen by the applicant with a score as set out in Rule .0404 of this Chapter; and
- (4) if the applicant or any owner, principal, or qualifier is in bankruptcy or has been in bankruptcy within five years prior to the filing of the application, provide to the Board an audited financial statement with a classified balance sheet as part of the application. This requirement shall not apply to shareholders of an applicant that is a publicly traded corporation.

(c) Intermediate License. The applicant for an intermediate license shall:

- (1) meet the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;

- (2) be financially stable to the extent that the total current assets of the applicant or the firm or corporation he or she represents exceed the total current liabilities by at least seventy-five thousand dollars (\$75,000), as reflected in an audited financial statement prepared by a certified public accountant or an independent accountant who is engaged in the public practice of accountancy; and
 - (3) pass the examination which shall contain subject matter related to the specific contracting classification chosen by the applicant with a score as set out in Rule .0404 of this Chapter.
- (d) Unlimited License. The applicant for an unlimited license shall:
- (1) meet the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
 - (2) be financially stable to the extent that the total current assets of the applicant or the firm or corporation he or she represents exceed the total current liabilities by at least one hundred fifty thousand dollars (\$150,000), as reflected in an audited financial statement prepared by a certified public accountant or an independent accountant who is engaged in the public practice of accountancy;
 - (3) pass the examination which shall contain subject matter related to the specific contracting classification chosen by the applicant with a score as set out in Rule .0404 of this Chapter.
- (e) Surety Bonds. In lieu of demonstrating the level of working capital as required in Subparagraphs (c)(2) and (d)(2) of this Rule or net worth under Subparagraph (b)(2) of this Rule, an applicant may obtain a surety bond from a surety authorized to transact surety business in North Carolina pursuant to G.S. 58 Articles 7, 16, 21, or 22. The surety shall maintain a rating from A.M. Best, or its successor rating organization, of either Superior (A++ or A+) or Excellent (A or A-). The bond shall be continuous in form and shall be maintained in effect for as long as the applicant maintains a license to practice general contracting in North Carolina or until the applicant demonstrates the required level of working capital as required by Subparagraphs (c)(2) and (d)(2) of this Rule. The application form and subsequent annual license renewal forms shall require proof of a surety bond meeting the requirements of this Rule. The applicant shall maintain the bond in the amount of three hundred fifty thousand dollars (\$350,000) for a limited license, one million dollars (\$1,000,000) for an intermediate license, and two million dollars (\$2,000,000) for an unlimited license. The bond shall list the State of North Carolina as obligee and be for the benefit of any person who is damaged by an act or omission of the applicant constituting breach of a construction contract, breach of a contract for the furnishing of labor, materials, or professional services to construction undertaken by the applicant, or by an unlawful act or omission of the applicant in the performance of a construction contract. The bond required by this Rule shall be in addition to and not in lieu of any other bond required of the applicant by law, regulation, or any party to a contract with the applicant. Should the surety cancel the bond, the surety and the applicant both shall notify the Board within 30 days in writing. If the applicant fails to provide written proof of financial responsibility in compliance with this Rule within 30 days of the bond's cancellation, then the applicant's license shall be suspended until written proof of compliance is provided.
- (f) Financial statements, accounting, and reporting standards. Financial statements submitted by applicants to the Board shall be no older than twelve months

from the date of submission. Financial statements shall conform to United States “generally accepted accounting principles” (GAAP). The Board may require non-GAAP financial statements from applicants wherein the only exception to GAAP is that such presentation is necessary to ascertain the working capital or net worth of the particular applicant. Examples of the circumstances when non-GAAP presentation may be necessary to ascertain the working capital or net worth of the applicant shall be when the only exception to GAAP is that assets and liabilities are classified as “current” and “noncurrent” on personal financial statements and when the only exception to GAAP is that the particular applicant is not combined with a related entity into one financial statement pursuant to AICPA Financial Interpretation 46R (ASC 810). The terminologies, working capital, balance sheet with current and fixed assets, current and long term liabilities, and any other accounting terminologies, used herein shall be construed in accordance with GAAP Standards as promulgated by the Financial Accounting Standards Board (FASB). The terminologies, audited financial statement, unqualified opinion, and any other auditing terminologies used herein shall be construed in accordance with those standards referred to as “generally accepted auditing standards” (GAAS) as promulgated by the American Institute of Certified Public Accountants (AICPA).

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-15.1; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1983; ARRC Objection March 19, 1987; Amended Eff. May 1, 1989; August 1, 1987; Temporary Amendment Eff. June 28, 1989 for a Period of 155 Days to Expire on December 1, 1989; Amended Eff. December 1, 1989; Temporary Amendment Eff. May 31, 1996; RRC Removed Objection Eff. October 17, 1996; Amended Eff. August 1, 1998; April 1, 1997; Temporary Amendment Eff. August 24, 1998; Amended Eff. April 1, 2014; April 1, 2013; August 1, 2008; April 1, 2006; March 1, 2005; August 1, 2002; April 1, 2001; August 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0205 Qualifier

(a) The qualifier for the applicant shall be a responsible managing employee, officer, or member of the personnel of the applicant, as described in G.S. 87-10. A qualifier’s examination credentials shall archive if the qualifier does not serve as a qualifier for an active licensee for a period of four consecutive years. Any subsequent attempts to qualify for a license shall require the qualifier to earn a passing grade. Subject to the provisions of G.S. 150B and Section .0800 of these Rules, the Board may reject the application of an applicant seeking qualification by employment of a person who has already passed an examination if such person has previously served as qualifier for a licensee that has been disciplined by the Board.

(b) A licensee shall notify the Board in writing in the event a qualifier ceases to be connected with the licensee. The notice shall include the date on which the qualifier was last connected with the licensee and shall be submitted no later than 10 days after the date of separation. A qualifier shall also be required to notify the Board in writing in such circumstances. After such notice is filed with the Board in writing, or the Board determines that the qualifier is no longer connected with the licensee if there are no additional qualifiers for the licensee, the license shall remain in full force and effect for a period of 90 days from the termination date, and then becomes invalid unless a qualifier has transferred a valid examination credential to the licensee, as provided by G.S. 87-10.

(c) Persons associated with a firm or corporation may take the required examination on behalf of the firm or corporation as described in G.S. 87-10. A partner may take an examination on behalf of a partnership.

(d) “Responsible managing” as used in G.S. 87-10 shall describe a person who is engaged in the work of the applicant a minimum of 20 hours per week or a majority of the hours operated by the applicant, whichever is less.

(e) “Members of the personnel” as used in G.S. 87-10 shall describe a person who is a responsible managing employee of the applicant. A member of the personnel shall not be an independent contractor.

(f) An applicant or licensee may have more than one qualifier. If one person associated with the applicant fails, and another passes, the license will be granted to that applicant. A license will be issued only in the classification held by a qualifier who has passed an examination in that classification.

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-11(a); Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2014; July 1, 2008; April 1, 2006; August 1, 2000; June 1, 1994; June 1, 1992; May 1, 1989; July 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0206 Joint Venture

History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Repealed Eff. May 1, 1989.

.0207 Joint Venture

A joint venture may practice general contracting in North Carolina if every principal or member of the joint venture is licensed to practice general contracting in North Carolina with the appropriate classification and at least one principal has the appropriate limitation, or if the joint venture obtains a general contracting license in its own name in accordance with G.S. 87 10 and these Rules. If an LLC is a joint venturer, all members and managers of the LLC shall be licensed to practice general contracting in North Carolina with the appropriate classification and limitation.

History Note: Authority G.S. 87 1; 87 10; Eff. June 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0208 Construction Management

(a) The phrase “undertakes to superintend or manage” as used in G.S. 87-1 to describe a person, firm, or corporation deemed to be a general contractor means that the person, firm, or corporation shall be responsible for superintending or managing the construction of an entire project, and either contracts directly with subcontractors to perform the construction for the project or is compensated for superintending or managing the project based upon the cost of the project or the time taken to complete the project. The person, firm, or corporation shall hold a general contracting license in the classifications and limitation applicable to the construction of the project.

(b) The phrase “undertakes to superintend or manage” described in Paragraph (a) of this Rule shall not include the following:

- (1) an architect or engineer licensed in North Carolina who is supervising the execution of design plans for the project owner and who does not contract directly with subcontractors to perform the construction for the project; or

- (2) subject to the conditions stated within this Subparagraph and Paragraph (c), any person, firm, or corporation retained by an owner of real property as a consultant, agent, or advisor to perform development-related functions, including:
 - (A) assisting with site planning and design;
 - (B) formulating a development scheme;
 - (C) obtaining zoning and other entitlements;
 - (D) tenant selection and negotiation;
 - (E) interfacing and negotiating with the general contractor, engineer, architect, other construction and design professionals, and other development consultants with whom the land owner separately contracts, including, negotiating contracts on the owner's behalf, assisting with scheduling issues, ensuring that any disputes between such parties are resolved to the owner's satisfaction, and otherwise ensuring that such parties are proceeding in an efficient, coordinated manner to complete the project;
 - (F) providing cost estimates, bids, and budgeting;
 - (G) monitoring the progress of development activities performed by other parties;
 - (H) arranging and negotiating governmental incentives and entitlements; and
 - (I) selecting and sequencing sites for development.
- (c) The exclusions set forth in Subparagraph (b)(2) shall not apply, however, unless the following conditions are satisfied:
 - (1) the owner has retained a licensed general contractor or licensed general contractors to construct the entire project or to directly superintend and manage all construction work in which the person, firm, or corporation has any involvement and that would otherwise require the use of a licensed general contractor; and
 - (2) the use of the person, firm, or corporation will not impair the general contractor's ability to communicate directly with the owner and to verify the owner's informed consent and ratification of the directions and decisions made by the person, firm, or corporation to the extent that such directions or decisions affect the construction activities otherwise requiring the use of a licensed general contractor. For the purposes of this Subparagraph, the general contractor shall be entitled to make a written demand for written verification from the owner of any directions given or decisions made by such a person, firm, or corporation on the owner's behalf. In that regard, if the general contractor delivers a written request directly to the owner asking that the owner confirm in writing that the owner desires that the general contractor perform consistent with a direction or decision made by such person, firm, or corporation:
 - (A) the general contractor shall not be obligated to follow such direction or decision in question until such time as the owner provides written verification of the direction or decision; and
 - (B) if the third party person, firm, or corporation whose direction or decision is being questioned by the general contractor attempts to itself provide the confirmation requested from the owner by the general contractor as provided above, such person, firm, or corporation

shall be deemed to be “undertaking to superintend or manage” as described in Paragraph (a) of this Rule.

History Note: Authority G.S. 87-1; 87-4; Eff. May 1, 1995; Amended Eff. June 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0209 Application

(a) Any application made pursuant to G.S. 87-10, shall be accompanied by a Certificate of Assumed Name when filing is required with the Register of Deeds office in the county in which the applicant is to conduct its business, pursuant to G.S. 66-68. A copy of such certification must be provided with the application to the Board. Applications submitted to the Board on behalf of corporations, limited liability companies and partnerships must be accompanied by a copy of any documents (Articles of Incorporation, Certificate of Authority, etc.) required to be filed with the North Carolina Secretary of State’s office.

(b) All licensees must comply with the requirements of G.S. 66-68 and must notify the Board within 30 days of any change in the name in which the licensee is conducting business in the State of North Carolina.

(c) Applicants for license and licenses may use only one assumed name.

(d) No applicant or licensee shall use or adopt an assumed name used by any other licensee, or any name so similar to an assumed name used by another licensee that could confuse or mislead the public.

History Note: Authority G.S. 87-1; 87-4; 87-10; Eff. August 1, 2000; Amended Eff. April 1, 2014

.0210 Public Building Projects

If a public building project is performed pursuant to G.S. 87-1.1, the total amount of work to be performed by all licensed general contractors shall not exceed 25% of the total bid price. A licensed general contractor shall hold the applicable classifications and limitation for the work undertaken by such licensed general contractor. For the purpose of this Rule, a public building project is a building project that is governed by G.S. 143, Article 8.

History Note: Authority G.S. 87-1.1; 87-4; Eff. April 1, 2004.

.0211 Multiunit Buildings

(a) If a project consists of the construction or alteration of one or more buildings that fall under the requirements of the North Carolina Building Code, all structures and units on the same parcel of land shall be considered as a single project.

(b) If a project consists of the construction or alteration of one or more buildings that fall under the requirements of the North Carolina Residential Code, only structures and units on the same parcel of land shall be considered as one project.

(c) The North Carolina State Building Code standards are hereby incorporated by reference, including subsequent amendments and editions. The current Code may be found online at http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes.

History Note: Authority G.S. 87-1; 87-4; 87-10; Eff. August 11, 2009; Amended Eff. April 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

SECTION .0300 — APPLICATION PROCEDURE

- .0301** **General** *History Note: Authority G.S. 87 1; 87 10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Pursuant to G.S.150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.*
- .0302** **Request** *History Note: Authority G.S. 87 1; 87 10; 150B-19(5); Eff. February 1, 1976; Amended Eff. June 23, 1977; Readopted Eff. September 26, 1977; Amended Eff. May 1, 2006; December 1, 1995; June 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.*
- .0303** **Application for
Licensure**
- (a) General. Applications for licensure shall contain the following:
- (1) the Social Security Number of examinee(s) and qualifier(s) and tax identification numbers for corporate applicants;
 - (2) the applicant's contact information;
 - (3) the name of business under which licensee will be operating, if any;
 - (4) requested designation of license limitation and classifications;
 - (5) information about all crimes of which the applicant has been convicted;
 - (6) certified copies of court records reflecting information regarding all crimes of which the applicant and qualifier(s) have been convicted;
 - (7) information indicating whether the applicant or qualifier(s) has any disciplinary history with the Board or any other occupational licensing, registration, or certification agency;
 - (8) information establishing financial responsibility as required by G.S. 87-10(a) and Rule .0204 of this Chapter;
 - (9) letters of reference as prescribed in Rule .0308 of this Chapter; and
 - (10) the application fee as set forth in Rule .0304 of this Chapter.
- (b) Contents. The application form requires the applicant to state which limitation and classification or classifications of license he or she is applying for and also to set forth the experience of the applicant or of his or her principal employees, as appropriate. In addition, the application form requires the applicant to give information concerning his or her personal history, including personal references.
- (c) Reciprocity. Applicants based on reciprocity shall submit with the application form a copy of the applicant's license in the other state, certified by the other state licensing board as being a copy of a valid license.
- History Note: Authority G.S. 87 1; 87 10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.*
- .0304** **Fees**
- (a) The Board shall charge the following fees:
- (1) Application for limited license: \$75.00;
 - (2) Application for intermediate license: \$100.00;

- (3) Application for unlimited license: \$125.00;
- (4) Application for increase in limitation: \$100.00 for increase to intermediate license and \$125.00 for increase to unlimited license;
- (5) Late renewal: \$10.00 per month for every month or part after the first day of January.

(b) All fees charged by the Board shall be non-refundable.

History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1983; Repealed Eff. May 1, 1989; Codifier approved agency's waiver request to reuse rule number; Eff. April 1, 2018.

.0305 Filing Address *History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Amended Eff. June 23, 1977; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.*

.0306 Filing Deadline *History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. June 1, 1994; June 1, 1992; Repealed Eff. April 1, 2001.*

.0307 Notice of Approval *History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Repealed Eff. August 1, 2000.*

.0308 Character References The Board will request each person, firm or corporation named in an application form as a character reference by the applicant to submit to the Board a written evaluation of the applicant as to the reference's general experience with the applicant.

History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989.

.0309 Licensure for Military-Trained Applicant; Licensure for Military Spouse (a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military trained applicant, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete Application for License to Practice General Contracting;
- (2) submission of a license fee in accordance with G.S. 87-10;
- (3) providing documentation to satisfy the conditions set out in G.S. 93B-15.1(a)(1) and (2); and
- (4) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.

(b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete Application for License to Practice General Contracting;
- (2) submission of a license fee in accordance with G.S. 87-10;
- (3) submission of written documentation demonstrating that the applicant is married to an active member of the U.S. military;

- (4) providing documentation to satisfy conditions set out in G.S. 93B-15.1(b) (1)and (2);
- (5) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed; and
- (6) is in good standing and has not been disciplined by any agency that had jurisdiction to issue the license, certification, or permit.

History Note: Authority G.S. 87-4; 93B-15.1; Eff. April 1, 2014

SECTION .0400 — EXAMINATION

.0401	General	<i>History Note: Authority G.S. 87-1; 87-10; 87-15.1; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Repealed Eff. May 1, 1989.</i>
.0402	Subject Matter	<i>History Note: Authority G.S. 87 1; 87 10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. August 1, 2000; June 1, 1994; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.</i>
.0403	Number of Examinations Taken	An applicant must take one different examination for each classification of general contracting for which the applicant seeks licensure. <i>History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989.</i>
.0404	Passing Grade	Persons taking the examination shall receive a score of at least 70 in order to pass the examination. <i>History Note: Authority G.S. 87 1; 87 10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1983; Repealed Eff. May 1, 1989; Codifier approved agency's waiver request to reuse rule number; Eff. April 1, 2018.</i>
.0405	Examination Schedule	Upon approval of the application by the Board, applicants will be notified as to the instructions for scheduling the required examination or examinations. Applicants may receive details from the examinations provider concerning the actual date, time and location to report for the examination or examinations requested. <i>History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. August 1, 2000; May 1, 1989.</i>
.0406 .0407	Filing Deadline Re-Examination	<i>History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1993; Repealed Eff. May 1, 1989.</i>
.0408	Person Taking Examination	<i>History Note: Authority G.S. 87 1; 87 10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2006; September 1, 1992; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.</i>
.0409	Review Workshop Charge	<i>History Note: Authority G.S. 87-10; 150B-19(5)d; Eff. June 1, 1992; Repealed Eff. April 1, 2004.</i>

- .0410 Failing Examination
History Note: Authority G.S. 87-10; Eff. December 1, 1995; Amended Eff. August 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.

SECTION .0500 — LICENSE

- .0501 License Granted
(a) License numbers shall be included on all contracts, advertisements, and licensee websites.
(b) If a licensee files Articles of Dissolution or the N.C. Department of the Secretary of State withdraws the licensee's Certificate of Authority, the Board shall archive the license.
History Note: Authority G.S. 87 1; 87 10; 87 12; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.
- .0502 Special License
The Board shall issue a temporary license only as required by G.S. 93B-15.1.
History Note: Authority G.S. 87 1; 87 10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.
- .0503 Renewal of License
(a) Applications for renewal of license shall contain the following:
(1) the Social Security Number of the applicant and qualifier(s) and tax identification number for corporations, LLCs, or partnerships;
(2) the applicant's contact information;
(3) the name of business under which licensee will be operating, if any;
(4) information regarding any changes made in the status of the licensee's business, since the initial application or last renewal was submitted to the Board, whichever is later;
(5) confirmation of license limitation and classifications;
(6) information about all crimes of which the applicant has been convicted since the initial application or last renewal was submitted to the Board, whichever is later;
(7) documentation regarding all crimes referenced above;
(8) information indicating whether the applicant has any disciplinary history with any other occupational licensing, registration, or certification agency since the initial application or last renewal was submitted to the Board, whichever is later;
(9) a financial statement prepared by a representative of the licensee on a form provided by the Board, a certified public accountant, or an independent accountant who is engaged in the public practice of accountancy to demonstrate continued financial responsibility pursuant to Rule .0204 of this Chapter;
(10) if applicable, proof that the surety bond is maintained in compliance with Rule .0204 of this Chapter; and

- (11) the application fee and any accrued late fees as set forth in Rule .0304 of this Chapter.
- (b) A licensee shall submit an audited financial statement as evidence of continued financial responsibility in accordance with Rule .0204 of this Chapter if the Board finds that the licensee is insolvent, financially unstable, or unable to meet its financial responsibilities based upon the information provided in the renewal application.
- (c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of its filing. A licensee in bankruptcy shall provide to the Board an audited financial statement with a classified balance sheet as part of any application for renewal.
- (d) A corporate license shall not be renewed unless it is in good standing with the N.C. Department of the Secretary of State.
- (e) Upon receipt of a written request by or on behalf of a licensee who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return, the Board shall grant that same extension of time for complying with renewal application deadlines, for paying renewal fees, and for meeting any other requirement or conditions related to the maintenance or renewal of the license issued by the Board. The applicant shall furnish to the Board a copy of the military orders or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

History Note: Authority G.S. 87-1; 87-4;87-10; 87-12; 87-13; 93B-15; Eff. February 1, 1976; Readopted Eff. September 26, 1977; ARRC Objection March 19, 1987; Amended Eff. May 1, 1989; August 1, 1987; Temporary Amendment Eff. June 28, 1989 for a period of 155 Days to Expire on December 1, 1989; Amended Eff. December 1, 1989; RRC Removed Objection of March 19, 1987 Eff. August 20, 1992 based on subsequent amendment; Amended Eff. September 1, 1992; Temporary Amendment Eff. May 31, 1996; Amended Eff. April 1, 2014; June 1, 2011; June 1, 2003; April 1, 2003; August 1, 2002; April 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0504 Increase in Limitation

- (a) General. A person, firm, or corporation holding a valid license to engage in the practice of general contracting in North Carolina may apply for a different limitation by making application for such different limitation with the Board. The application shall contain the following:
- (1) the Social Security Number of individual applicant, qualifier(s), and tax identification number for corporations, LLCs, or partnerships;
 - (2) the applicant's contact information;
 - (3) the exact name of the business as reflected on the previously issued license that is subject to the limitation increase application;
 - (4) information regarding any changes made in the status of the licensee's business since the initial application or last renewal was submitted to the Board, whichever is later;
 - (5) confirmation of license limitation and classifications;
 - (6) requested limitation;

- (7) an audited financial statement prepared in accordance with Rule .0204 of this Chapter;
- (8) if applicable, proof that the surety bond is maintained in compliance with Rule .0204 of this Chapter; and
- (9) the application fee as set forth in Rule .0304 of this Chapter.

(b) Eligibility. An applicant shall be eligible for a new limitation if he or she possesses the qualifications necessary in accordance with Rule .0204 of this Chapter, except that he or she shall not be required to take a written exam.

History Note: Authority G.S. 87 1; 87-4; 87 10; Eff. February 1, 1976; Amended Eff. June 23, 1977; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; January 1, 1983; Temporary Amendment Eff. June 28, 1989, for a period of 155 days to expire on December 1, 1989; Amended Eff. August 1, 2000; December 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0505 Maintaining Current Address; Notification

(a) All licensees, applicants, and qualifiers shall notify the Board of any change in mailing address, phone number, or email address within 30 days from the date of the change. Notice shall be given in writing or through the Board’s website portal for licensees.

(b) Notification from the Board shall be deemed received if mailed to the address provided by the licensee and shown in the records of the Board.

History Note: Authority G.S. 87 8; Eff. June 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0506 Charge for Status of Licensure

The Board shall charge persons requesting a verified copy of all or part of its roster of licensed contractors a fee to cover the cost of copying and mailing.

History Note: Authority G.S. 87 8; 87 13; 150B-19(5); Eff. June 1, 1992; Amended Eff. May 1, 2006; May 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0507 Fund Suspension

In the event the Board’s authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the Board’s authority is restored, the funds shall be moved from the escrow account into the general operating account.

History Note: Authority G.S. 87-4; 93B-2; Eff. June 1, 2011.

SECTION .0600 — RULE-MAKING PROCEDURES

.0601 Petitions

.0602 Notice

.0603 Hearings

.0604 Emergency Rules

.0605 Declaratory Rulings

History Note: Authority G.S. 150A-12; 150A-12(d); 150A-13; 150A-16; 150A-17; Eff. February 1, 1976; Amended Eff. June 23, 1977; Readopted Eff. September 26, 1977; Repealed Eff. January 1, 1983.

.0606 Rule-Making

History Note: Authority G.S. 150A-11; 150A-14; Eff. January 1, 1983; Amended Eff. December 1, 1985; Repealed Eff. September 1, 1988.

SECTION .0700 — BOARD DISCIPLINARY PROCEDURES

.0701 Improper Practice

(a) Complaint. Any person who believes that a licensed general contractor is in violation of the provisions of G.S. 87-11 may file a complaint with the Board against a licensee, qualifier, or both by setting forth in writing those charges and swearing to their authenticity. The complaint shall be submitted to the Board and include the complainant's contact information, project location, and name of the licensee, qualifier, or both.

(b) Preliminary or Threshold Determination:

- (1) A complaint filed in accordance with G.S. 87-11(a1) shall be forwarded to a staff investigator for investigation. Within 30 days, the Board shall forward a written notice of the complaint to the licensee and qualifier(s) against whom the charge is made. The notice shall request a response from the licensee and qualifier(s). The Board shall send notice of the charge and of the alleged facts or alleged conduct by first class mail to the last known address and by email to the address of the licensee and qualifier(s).
- (2) After the investigation is complete, the charge shall be referred to the review committee. The review committee shall consist of the following individuals:
 - (A) one member of the Board;
 - (B) the Secretary-Treasurer or his designee; and
 - (C) a staff person agreed upon by the individuals listed above.
- (3) Based upon the complaint and investigation, the review committee shall recommend to the Board that:
 - (A) The charge be dismissed;
 - (B) When the charge is admitted as true by the licensee and qualifier(s), the Board accept the licensee's and qualifier(s)' admission of guilt and order the licensee and qualifier(s) not to commit in the future the act or acts admitted by him to have been violated and not to violate any of the acts of misconduct specified in G.S. 87-11 at any time in the future; or
 - (C) The charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .0800 of this Chapter and the provisions of G.S. 87-11. Prior to the charges being heard and determined by the Board, it may be resolved by consent order.

History Note: Authority G.S. 87-4; 87-11; 150B-3; 150B-38; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2014; June 1, 2011; April 1, 2006; April 1, 2003; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0702 Unlawful Practice

(a) Complaint. Any person who believes that a person, firm, or corporation is in violation of the acts specified in G.S. 87-13 may file a complaint against that person, firm, or corporation. The complaint shall be filed with the Board and include the complainant's contact information, project location, and name of alleged violator.

(b) Preliminary or Threshold Determination:

- (1) A complaint filed in accordance with G.S. 87-13 shall be forwarded to a staff investigator for investigation. Board staff shall investigate the charge to determine whether there is probable cause to believe that a party against whom a charge has been brought violated the provisions of G.S. 87-13.
- (2) After the investigation is complete, the charge shall be referred to the review committee. The review committee shall consist of the following individuals:
 - (A) one member of the Board;
 - (B) the Secretary-Treasurer or his designee; and
 - (C) a staff person agreed upon by the individuals listed above.
- (3) Based upon the complaint and investigation, if the review committee determines that probable cause exists that a person, firm, or corporation is practicing general contracting without a license, it shall recommend to the Board that injunctive relief be sought. If the Board concurs with the review committee's recommendation, the investigation shall be forwarded to Board counsel to seek injunctive relief. If the review committee does not believe that the person, firm, or corporation is practicing general contracting without a license, it shall recommend to the Board dismissal of the complaint. Once dismissed, the Board shall notify the complainant.

History Note: Authority G.S. 87-1; 87-4; 87-13; 87-13.1; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2014; June 1, 2011; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0703 Fee for Submittal of
Bad Check

- (a) The Board shall charge the maximum processing fee allowed by G.S. 25-3-506 if a check submitted to the Board is returned by a financial institution because of insufficient funds or because the drawer did not have an account at that bank.
- (b) Until such time as the drawer of the bad check has paid the prescribed fee, the drawer shall not be eligible to take an examination, review an examination, obtain a license, or have the license renewed. For the purpose of this Rule, "prescribed fee" shall mean the sum of:
 - (1) the maximum processing fee allowed by G.S. 25-3-506;
 - (2) the renewal or application fee, whichever is applicable; and
 - (3) the late payment fee described in G.S. 87-10(e).
- (c) Any license that has been issued or renewed based on a check which is returned to the Board shall be invalid until such time as the drawer has paid the prescribed fee. The invalidity of the license or renewal shall commence on the date of the issuance of the license or renewal.
- (d) Payment of the prescribed fee to the Board shall be made in the form of a cashier's check, money order, credit card, or debit card.
- (e) In the event the drawer of the bad check fails to pay the prescribed fee, during which time the license or renewal lapses for four years, the license shall not be renewed and the licensee for whom the check was to benefit shall fulfill all

requirements of a new applicant set forth in G.S. 87-10 and Rules .0303 and .0503 of this Chapter.

History Note: Authority G.S. 25-3-506; 87-4; 87-10; Eff. January 1, 1983; Amended Eff. April 1, 2014; April 1, 2003; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

SECTION .0800 — CONTESTED CASES

- .0801 General Rules
- .0802 Opportunity for Licensee or Applicant to Have Hearing
- .0803 Notice of Contemplated Board Action: Request for Hearing
- .0804 Request for Hearing
- .0805 Granting Hearing Request
- .0806 Notice of Hearing
- .0807 Who Shall Hear Contested Cases
- .0808 Place of Hearing
- .0809 Intervention
- .0810 Hearing Officers
- .0811 Conduct of Contested Cases
- .0812 Discovery
- .0813 Depositions
- .0814 Conduct of Hearing
- .0815 Decision of Board
- .0816 Administrative Hearing
- .0817 Right to Hearing
- .0818 Request for Hearing
- History Note:* Authority G.S. 1A-1; Rule 24; 1A-1; Rules 26 through 33; 87-10; 87-11; 87-15.1; 150A-3; 150A-23; 150A-23(a); 150A-24 through; 150A-33; 150A-36; 150A-37; Eff. February 1, 1976; Amended Eff. June 23, 1977; Readopted Eff. September 26, 1977; Repealed Eff. January 1, 1983.
- History Note:* Authority G.S. 150A-11; 150A-14; Eff. January 1, 1983; Amended Eff. December 1, 1985; Repealed Eff. September 1, 1988.
- History Note:* Authority G.S. 87 11(b); 150B 11; 150B 38; Eff. September 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Repealed Eff. April 1, 2018.
- (a) A person aggrieved as defined by G.S. 150B-2 may submit a request for a hearing pursuant to G.S. 150B-38 before the Board in writing to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING. The request shall contain the following information:
- (1) name and address of the aggrieved person;
 - (2) a statement of the action taken by the Board that is challenged; and

(3) a statement of the way in which the aggrieved person has been aggrieved.

(b) Upon receipt of a request for a hearing, the Board shall acknowledge the request and schedule a hearing.

History Note: Authority G.S. 87-4; 87-11; 150B-38; Eff. September 1, 1988; Amended Eff. June 1, 2011; August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0819 Granting or Denying Hearing Request

(a) The Board shall decide whether to grant a request for a hearing.

(b) The denial of request for a hearing shall be issued immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.

(c) Approval of a request for a hearing shall be signified by the issuing of a notice as required by G.S. 150B-38(b).

History Note: Authority G.S. 87-11(b); 150B-38; Eff. September 1, 1988; Amended Eff. July 1, 2008.

.0820 Notice of Hearing

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall comply with G.S. 150B-38(b).

(b) Based upon information received, if the Board determines that the public health, safety, or welfare requires emergency action, it may issue an order summarily suspending a license or exam credentials. Upon service of the order, the licensee or qualifier to whom the order is directed shall cease the practice of general contracting in North Carolina. The Board shall give notice of hearing pursuant to G.S. 150B 38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B 42.

History Note: Authority G.S. 87-4; 87 11(b); 150B 3(c); 150B 38; Eff. October 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0821 Who Shall Hear Contested Cases

All administrative hearings will be conducted by the Board, a panel consisting of a majority of the members of the Board, or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 87-11(b); 150B-11; 150B-38; 150B-40; Eff. October 1, 1988. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016

.0822 Informal Procedures

The Board and the party or parties may agree in advance to simplify the hearing by: decreasing the number of issues to be contested at the hearing; accepting the validity of certain proposed evidence; accepting the findings in some other case with relevance to the case at hand; or agreeing to such other matters as may expedite the hearing.

History Note: Authority G.S. 87-11(b); 150B-11; 150B-41; Eff. October 1, 1988. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016

.0823 Petition for Intervention

- (a) A person desiring to intervene in a contested case must file a written petition with the Board's office. The request should bear the notation: PETITION TO INTERVENE IN THE CASE OF (Name of case).
- (b) The petition must include the following information:
 - (1) The name and address of petitioner;
 - (2) The business or occupation of petitioner, where relevant;
 - (3) A full identification of the hearing in which petitioner is seeking to intervene;
 - (4) The statutory or non-statutory grounds for intervention;
 - (5) Any claim or defense in respect of which intervention is sought; and
 - (6) A summary of the arguments of evidence petitioner seeks to present.
- (c) The person desiring to intervene shall serve copies of the petition on all parties to the case.
- (d) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties, and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence or whatever else is deemed necessary, which are imposed on the intervenor.
- (e) If the Board's decision is to deny intervention, the petitioner will be notified promptly. Such notice will be in writing, identifying the reasons for the denial, and will be issued to the petitioner and all parties.

History Note: Authority G.S. 87-11(b); 150B-11; 150B-38; Eff. October 1, 1988. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016

.0824 Types of Intervention

- (a) Intervention of Right. A petition to intervene as of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the petition is timely.
- (b) Permissive Intervention. A petition to intervene permissibly as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:
 - (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearing; and
 - (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.
- (c) The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

History Note: Authority G.S. 87-11(b); 150B-11; 150B-38; Eff. September 1, 1988. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016

.0825 Disqualification of Board Members

- (a) Self-disqualification. If for any reason a board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that board member shall voluntarily decline to participate in the hearing or decision.

(b) Petition for Disqualification. If for any reason any party in a contested case believes that a board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit should bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (Name of case).

(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.

(d) Timeliness of Affidavit. An affidavit of disqualification will be considered timely if filed ten days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a board member may be disqualified under this Rule.

Where a petition for disqualification is filed less than 10 days before or during the course of a hearing, the hearing shall continue with the challenged board member sitting. Petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member will not participate in further deliberation or decision of the case.

(e) Procedure for Determining Disqualification:

- (1) The Board will appoint a board member to investigate the allegations of the affidavit.
- (2) The investigator will report their findings and recommendations to the Board.
- (3) The Board shall decide whether to disqualify the challenged individual.
- (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the other members of the Board.
- (5) When a board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
- (6) If three or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 87-11(b); 150B-11; 150B-38; 150B-40; Eff. October 1, 1988.

.0826 Failure to Appear

Should a party fail to appear at a scheduled hearing, the Board may proceed with the hearing and make its decision in the absence of the party, provided that the party has been given notice in accordance with G.S. 150B-38 and unless otherwise directed by law. The Board may order a continuance in order to give the party another opportunity to appear as determined on a case by case basis and upon good cause shown.

History Note: Authority G.S. 87-4; 87 11(b); 150B 38; 150B 40; Eff. October 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0827 Subpoenas

(a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall:

- (1) be made in writing to the Board;
- (2) identify any document sought;
- (3) include the full name and home or business address of all persons to be subpoenaed; and
- (4) if known, the date, time, and place for responding to the subpoena.

The Board shall issue the requested subpoenas within three days of receipt of the request.

(b) Subpoenas shall contain the following:

- (1) the caption of the case;
- (2) the name and address of the person subpoenaed;
- (3) the date, hour, and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records, or objects the witness is directed to bring with him to the hearing, if any;
- (5) the identity of the party on whose application the subpoena was issued;
- (6) the date of issue;
- (7) the signature of the presiding officer or his designee; and
- (8) a "return of service." The "return of service" form as filled out, shall show:
 - (A) the name and capacity of the person serving the subpoena;
 - (B) the date on which the subpoena was delivered to the person directed to make service;
 - (C) the date on which service was made;
 - (D) the person on whom service was made;
 - (E) the manner in which service was made; and
 - (F) the signature of the person making service.

(c) Subpoenas shall be served in a manner set forth in Rule 45 of the N.C. Rules of Civil Procedure.

(d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. Written objections shall comply with Rule 45 of the N.C. Rules of Civil Procedure.

(e) The party who requested the subpoena may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness with filing the response with the Board.

(f) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(g) Promptly after the close of such hearing, a majority of the Board members with voting authority will rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of the record.

History Note: Authority G.S. 87 11(b); 150B 38; 150B-39; 150B 40; Eff. October 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0828 **Witnesses**

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: Authority G.S. 87-11(b); 150B-11; 150B-38; 150B-40; Eff. September 1, 1988. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016

.0829 **Final Decision**

In all cases heard by the Board, the Board shall issue a final written decision within 60 days following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right to judicial review.

History Note: Authority G.S. 87-4; 87 11(b); 150B 38; 150B 42; Eff. September 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

.0830 **Proposals for Decisions**

(a) If an administrative law judge hears a contested case pursuant to G.S. 150B-40(e), a party may file written exception and alternative finding of facts and conclusions of law to the "proposal for decision" issued by the administrative law judge. The written exceptions and alternative findings of facts and conclusions of law shall be received by the Board within 10 days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions shall be written and refer specifically to pages of the record or otherwise identify the occurrence to which exception is taken. The exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions shall bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (Name of case).

(c) Pursuant to G.S. 150B-40(e), any party may present oral argument to the Board upon request. The request must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, Board staff shall issue notice to all parties designating time and place for such oral argument.

(e) The Board's final decision shall be a part of the record, a copy shall be given to all parties, and shall be the "final agency decision" for the right to judicial review. The final written decision shall be issued by the Board within 60 days from the date oral arguments were presented to the Board. If there are no oral arguments presented, the final written decision shall be issued within 60 days of the date on which the Board rendered its decision.

History Note: Authority G.S. 87-4; 87 11(b); 150B 38; 150B 40; Eff. September 1, 1988; Amended Eff. July 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2018.

SECTION .0900 — HOMEOWNERS RECOVERY FUND

.0901 Definitions

The following definitions apply to the Board's administration of the Homeowners Recovery Fund established pursuant to Article 1A, Chapter 87 of the General Statutes:

- (1) "Constructing or altering" means contracting for the construction or alteration of a single-family residential dwelling unit.
- (2) "Dishonest conduct" means conduct described in G.S. 87-15.5(3).
- (3) "Incompetent conduct" means conduct which demonstrates a lack of ability or fitness to discharge a duty associated with undertaking to construct or alter a single-family residential dwelling or the supervision of such construction or alteration.
- (4) "Owner or former owner" means a person who contracted with a general contractor for the construction or purchase of a single-family residential dwelling unit. "Owner or former owner" does not include a person who is a spouse, child, parent, grandparent, sibling, partner, associate, officer, or employee of a general contractor whose conduct caused a reimbursable loss. In addition, the term does not include general contractors or any financial or lending institution, or any owner or former owner of a single-family residential dwelling unit that has been the subject of an award from the Homeowners Recovery Fund resulting from the same dishonest or incompetent conduct. "Owner or former owner" does not include the owner of real property who purchased, owned, constructed, altered, or contracted for construction or alteration of a single-family residential dwelling unit without intending to occupy the single-family residential dwelling unit as a residence.
- (5) "Substantial completion" means that degree of completion of a project, improvement or specified area or portion thereof whereupon the owner can use the same for its intended use.
- (6) "Separately owned residence" means a building whose construction is governed by the Building Code Council pursuant to G.S. 143-138.

History Note: Authority G.S. 87-15.6; Eff. January 4, 1993; Amended Eff. April 1, 2014; July 1, 2008; April 1, 2007; April 1, 2001; August 1, 2000; August 1, 1998.

.0902 Management of Fund

- (a) The Secretary-Treasurer, as the Board's Chief Administrative Officer, shall:
 - (1) Establish a special account of the Board for those monies collected pursuant to G.S. 87-15.6(b);
 - (2) Make expenditures from the fund as authorized by G.S. 87-15.7(b) by signing checks for expenditures after the checks are signed by the Chairman.
- (b) Until such time as the fund initially reaches two hundred fifty thousand dollars (\$250,000.00), or at any time thereafter that the fund has insufficient assets in excess of two hundred fifty thousand dollars (\$250,000.00) to pay outstanding claims, the Secretary-Treasurer shall not disburse any payments to an applicant for recovery. Any applicant who is awarded payment from the fund, however, shall hold a vested right for payment once the fund reaches a sufficient level. Authorized payments which cannot be made due to lack of funds will be paid as funds become available,

beginning with those payments which have been unsatisfied for the longest period of time.

(c) Monies forwarded to the Board pursuant to G.S. 87-15.6(b) for deposit into the fund shall be accompanied by a verified statement signed by the city or county inspector on a form provided by the Board. The form shall require information concerning the number of permits issued by the reporting inspections department from which the recovery fund fee was collected and the total dollar amount due to the fund for that particular quarter.

History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8; Eff. January 4, 1993.

.0903 **Application for
Payment**

(a) Applicants desiring to obtain payment from the fund shall file a verified application with the Board on a prescribed form. The form shall require information concerning the applicant and the claim including, but not limited to, the applicant's name and address, the amount of the claim, a description of the acts of the general contractor which constitute the grounds for the claim and a statement that all court proceedings are concluded or the general contractor has filed for bankruptcy. Requests for the application form shall be directed to the Board at the address shown in Rule .0101 of this Chapter.

(b) If the applicant has exhausted all civil remedies pursuant to G.S. 87-15.8(3), the application shall include certified copies from the civil action of the complaint, judgment and return of execution marked as unsatisfied. If the general contractor was a corporation which was dissolved no later than one year after the date of discovery by the applicant of the facts constituting the dishonest or incompetent conduct, and the applicant did not commence a civil action against the general contractor, then the applicant shall include certified copies of documents evidencing the dissolution. If the applicant has been precluded from filing suit, obtaining a judgment or otherwise proceeding due to the bankruptcy of the general contractor, then the applicant shall submit a certified copy of the bankruptcy petition and any proof of claim, and documents from the bankruptcy court or trustee certifying that the applicant has not and will not receive any payment from the bankruptcy proceeding. If the applicant is claiming against the estate of a deceased general contractor, then the applicant shall submit a statement from the administrator of the estate certifying that the applicant has not and will not receive any payment from the estate.

History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8; Eff. January 4, 1993; Amended Eff. March 1, 2005; August 1, 1998.

.0904 **Filing Deadline
and Service**

(a) Applicants seeking recovery from the fund shall be forever barred unless application is made within one year after termination of all proceedings, including appeals, in connection with an unsatisfied judgment obtained against a general contractor. Claims based upon the bankruptcy, death, or dissolution of the general contractor shall be forever barred unless application is made within three years from the date of discovery by the applicant of the facts constituting the dishonest or incompetent conduct or within six years of substantial completion of the construction or alteration of the residence in question, whichever comes first.

(b) Applications shall be filed at the address shown in Rule .0101 of this Chapter. The Board shall serve a copy of the application upon the general contractor who allegedly caused the loss. Service shall be accomplished by certified mail, return receipt requested, or other methods authorized by G.S. 150B-38(c).

History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8; Eff. January 4, 1993; Amended Eff. April 1, 2007; August 1, 1998.

.0905 Multiple Claims

(a) Any time the Board has notice of more than one application or potential claim for payment from the fund arising out of the conduct of a single general contractor, the Board may, in its discretion, direct that all applications filed before a date determined by the Board, be consolidated for hearing.

(b) When consolidation is appropriate, the Board shall issue to the general contractor, the applicants and potential claimants, an Order of Consolidation setting forth the deadline for filing all applications to be consolidated. On or before the deadline, the Board may, in its discretion, either extend the deadline or issue to the general contractor and all applicants notice of the time, date and place set for a hearing on the consolidated applications.

(c) Claims for which the Board has received no notice or for which no application has been filed prior to the deadline set forth in the Order of Consolidation shall not be considered by the Board until after the completion of all proceedings relating to the consolidated applications and payment thereon.

History Note: Authority G.S. 87-15.6; 87-15.7; Eff. January 4, 1993.

.0906 Processing of Claim Application

(a) Staff shall refer a filed application to the Recovery Fund Review Committee.

The Recovery Fund Review Committee is a committee made up of the following individuals:

- (1) one member of the Board;
- (2) the legal counsel of the Board; and
- (3) the Secretary-Treasurer.

(b) Within 30 days after service of a copy of the application upon the general contractor, the general contractor may file a response to the application setting forth answers and defenses. Responses shall be filed with the Board and copies shall be served on the applicant.

(c) The Committee shall dismiss a claim if an applicant fails to respond to an inquiry from the Committee or its representative within six months of receipt of the inquiry.

(d) After all preliminary evidence has been received, the Committee shall make a recommendation regarding the disposition of the application. From the evidence, it shall recommend to the Board that:

- (1) the application be dismissed as meritless; or
- (2) the application and charges contained therein be presented to the Board for a hearing and determination by the Board on the merits of the application.

(e) The Committee shall give notice of the recommendation to the applicant and the general contractor within 10 days of the Committee's decision. The Committee is not required to notify the parties of the reasons for its recommendation. The decision of the Board is final.

History Note: Authority G.S. 87-4; 87-15.6; 87-15.7; 87-15.8; Eff. January 4, 1993; Amended Eff. April 1, 2007.

(a) If it is determined by the Recovery Fund Review Committee that the Board should conduct a hearing on an application, the Board shall give the applicant and general contractor notice of hearing not less than 15 days before the hearing. Notice of hearing to the general contractor shall be sufficient if mailed to the last known address of the general contractor at least 15 days prior to the date of the hearing. The notice shall contain the following information:

- (1) The name, position, address and telephone number of a person at the offices of the Board to contact for further information or discussion;
- (2) The date, time, and place for a pre-hearing conference, if any; and
- (3) Any other information being relevant to informing the parties as to the procedure of the hearing.

(b) All homeowners recovery fund hearings shall be conducted by the Board or a panel consisting of a majority of the members of the Board.

(c) The provisions of 21 NCAC 12 .0825 governing disqualification of Board members shall also govern hearings conducted pursuant to this Section.

(d) Should a party fail to appear at a hearing, the Board may proceed with the hearing and make its decision in the absence of the party, provided that the party has been given proper notice.

(e) Any party may be a witness and may present witnesses on the party's behalf at the hearing. The Board staff may also present evidence and participate at the hearing. All oral testimony at the hearing shall be under oath or affirmation. At the request of a party, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

(f) At the hearing, the applicant shall be required to show:

- (1) He has suffered a reimbursable loss as defined in G.S. 87-15.5(6) and Rule .0901(c) of this Chapter in the construction or alteration of a single-family dwelling unit owned or previously owned by that person, provided, that if there have been findings entered in a contested civil action relevant to the issue of whether the applicant has suffered a reimbursable loss, then such findings shall be presumed as established for purposes of this Section subject to rebuttal by the general contractor;
- (2) He did not, directly or indirectly, obtain the building permit in his own name or did use a general contractor;
- (3) He has made application within one year after the termination of all judicial proceedings, including appeals, in connection with the unsatisfied judgment or within the period prescribed in Rule .0904(a) of this Chapter for claims based upon the automatic stay provisions of Section 362 of the U.S. Bankruptcy Code;
- (4) He has diligently pursued his remedies against the general contractor and on any applicable bond, surety agreement or insurance contract, and attempted execution on the judgments against all judgment debtors without success.

(g) The general contractor shall be permitted to participate in the hearing as a party and shall have recourse to all appropriate means of defense, including the examination of witnesses.

History Note: Authority G.S. 87-15.5; 87-15.6; 87-15.7; 87-15.8; Eff. January 4, 1993; Amended Eff. August 1, 2000.

- .0908** **Order Directing
Payment From Fund** After any hearing, the Board may find that an applicant should be paid from the fund and the Board may enter an Order requiring payment from the fund in whatever sum the Board deems appropriate in accordance with the limitations contained in Rule .0910 of this Chapter. All payments are a matter of privilege and not of right.
- History Note: Authority G.S. 87-15.5; 87-15.6; 87-15.7; 87-15.8;
Eff. January 4, 1993.*
- .0909** **Settlement of Claims** The claim or claims forming the basis of an application for recovery from the fund may be compromised and settled by the applicant and the general contractor after the filing of the application. The parties shall notify the Board immediately of any such settlement. Payment of the claim, in whole or in part, by the general contractor as part of a settlement will result in the claim no longer being a “reimbursable loss” as defined by G.S. 87-15.5(6)(b), and the claim will be dismissed by the Board.
- History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8; Eff. January 4, 1993.*
- .0910** **Limitations; Pro Rata
Distribution** (a) Payments from the fund for an approved application shall not exceed an amount equal to 10 percent of the total amount in the fund at the time the application is approved by the Board. All applications considered by the Board at the same meeting shall be subject to the same limitation.
- (b) Consequential damages, multiple or punitive damages, civil or criminal penalties or fines, incidental damages, special damages, interest, and court costs shall not constitute monetary losses.
- History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8; Eff. March 1, 1993.*
- .0911** **Subrogation of Rights** When the Board has paid from the fund any sum to the applicant, the Board shall be subrogated to the rights of the applicant and the applicant shall assign to the Board all of his rights, title, and interest in the claim to the extent of the amount paid from the fund.
- History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.9; Eff. January 4, 1993.*
- .0912** **Actions Against
General Contractor** Nothing contained in these Rules shall prohibit or limit the authority of the Board to take disciplinary action against its licensees or to seek injunctive relief against those persons who have engaged in the unauthorized practice of general contracting. Stipulations made between the general contractor and the applicant as part of settlement or compromise of any claim shall not be binding on the Board in any disciplinary proceeding or action for injunction.
- History Note: Authority G.S. 87-11; 87-13; 87-13.1; 87-15.6;
Eff. January 4, 1993.*

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