



Bulletin

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Events on the Horizon

Veterans Day/Board Office Closed

November 11, 1999

Thanksgiving Day/Board Office Closed

November 25-26, 1999

Christmas/Board Office Closed

December 24-27, 1999

All General Contractors' Licenses Expire

December 30, 1999

New Year's Day/Board Office Closed

December 31, 1999

Martin Luther King Jr.'s Birthday/Board Office Closed

January 17, 2000

Regular Board Meeting

January 19, 2000

Regular Board Meeting

April 12, 2000

Good Friday/Board Office Closed

April 21, 2000

Summary Of 1999 Contractor Licensing Legislation

Senate Bill Expands Licensing Board's Disciplinary Authority

The 1999 session of the North Carolina General Assembly adjourned July 21, with no less than 2,664 bills being introduced during a busy session. Many of the bills and resolutions introduced during the 1999 legislative session impact North Carolina's construction industry, dealing with issues such as workers' comp, environmental initiatives, and growth and development in the State. Four bills were passed resulting in changes to the general contractor licensing laws. Two bills were introduced, which were not enacted in 1999, proposing to make significant changes to residential contractor licensing requirements. These bills still remain eligible, however, for consideration in the General Assembly's short session beginning May 2000. The summary below briefly describes bills passed during the 1999 session which affect or change North Carolina's general contractor licensing laws:

Senate Bill 1058—Requires candidates or applicants for the Building and Residential contractor examinations to be examined on provisions of the North Carolina State Building Code. SB 1058 also clarifies the Board's authority to impose disciplinary measures other than license revocation, and author-

izes the Board to take disciplinary action regarding the ability of an individual to act as a qualifying party for a license and against the individual license held by a qualifying party. Became effective August 5, 1999.

Senate Bill 796—Authorizes the Licensing Board to acquire, mortgage, sell and otherwise deal with real property in the same manner as a private entity without having to use procedures required by the Office of State Purchasing and Contract and State Property Office. SB 796 also allows the Board to purchase or rent equipment or supplies and purchase insurance. Became effective July 22, 1999.

House Bill 1098—(Strengthen Sedimentation Act) requires applicants for licensure and examination candidates to be examined on the requirements of North Carolina's Sedimentation Pollution Control Act. Became effective October 1, 1999.

House Bill 1076—Requires public utilities contractors constructing fire service mains for connection to sprinkler systems to terminate the lines at a flange, cap, plug or valve inside the building one foot above the finished floor. Became effective October 1, 1999.

Proposed Rules Amend Licensure, Application Requirements

The Licensing Board has begun rule-making proceedings for the adoption of proposed rules that could become effective as of August 1, 2000. The Board conducted a public hearing October 15, 1999 for the purpose of receiving comment on the proposed rules.

The Board proposed to adopt the rule cited as 21 NCAC 12.0209, requiring applications to be accompanied by a Certificate of Assumed Name and other appropriate documents, and to amend the rules cited as 21 NCAC 12.0202, 0204, .0205,

.0402, .0405, .0410, .0901 and .0907. .0202 adds the installation of seating for stadiums, arenas and auditoriums to the S(Metal Erection) classification; .0204 increases the working capital requirements for a limited license and allows applicants to show financial responsibility (minimum working capital) by either submitting an audited financial statement or obtaining a bond. .0205 clarifies the requirements for qualifying parties. .0402, .0405 and .0410 change examination requirements, examination content and scheduling procedures.

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NCLBGC Bulletin

Published semi-annually as a service to general contractor licensees to promote a better understanding of the General Contractors Law (N.C.G.S. §§87-1 to 87-15.9) and to provide information of interest to all construction professionals.

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Planning a Relocation or Move?

Please mail or fax your new address and telephone number to the Licensing Board (include your license number) at:

P.O. Box 17187
Raleigh, NC 27619
Fax: (919) 571-4703

Chairman's Message

by Robert P. Hopkins, P.E., Chairman

You are all aware of the plight of citizens in Eastern North Carolina due to the effects of September's Hurricanes—Dennis, Floyd and Irene. Your General Contractors Licensing Board has responded to these disasters, and this is to make you aware of our actions taken. To date, we have accomplished four established objectives.

First, the Board approved and the field staff has distributed over 8,000 flyers. These flyers informed citizens in the affected areas that in accordance with North Carolina law, a licensed general contractor must be employed for construction projects costing \$30,000 or more. Flyers were distributed to city and county governments, building inspections departments, building supply businesses, flood recovery field offices and all local print and broadcast media. The public was cautioned of predatory and unscrupulous individuals; suggestions were given for obtaining and contracting with reputable licensed general contractors.

Second, the Board, its staff and our General Counsel have been in communication with the Governor's office, the Attorney General's staff, legislative leaders and the Secretary of Public Safety and Crime Control to offer its assistance. The Board has taken the position that to be part of the decision-making process was far more beneficial to North Carolina's licensed general contractors than to be in a reactive position. Meetings with key State officials are ongoing and will probably continue for months until the real situation and needs are fully defined.

Third, the Board and its staff have developed a contingency plan to register (not license) out-of-state contractors on a temporary six-month basis if State Government determines the need exists for additional contractors to assist in the large rebuilding effort required. This plan essentially allows general contractors possessing licenses in other states to pay

a fee, present their credentials, and demonstrate financial responsibility in order to receive a temporary North Carolina registration for either residential or commercial work for the appropriate limitation as determined by the Board. It is the Board's opinion that some regulation is better than none. Also, we believe that six (6) months is ample time for a contractor to make application for and obtain a true general contractors license. The Board has considered the many pros and cons with this possible plan of action, and will rely on the guidance and judgment of State Government. Again, this is only a contingency plan to be implemented only if the need is demonstrated and requested by State Government.

Fourth, our field and office staff have received numerous requests from local governmental agencies for a listing of general contractors in their immediate region. The staff can easily supply such listings by county to satisfy the request. However, the Board's opinion is that there are probably licensed general contractors throughout North Carolina who would not only like to assist, but may also welcome the business. Therefore, if you would like your name, address and telephone contact number added to a special roll to be distributed to all requesting agencies, please inform the Board office in writing. Make a notation or designate your correspondence to "Hurricane Flood Construction" and clearly state your desire to be included on the flood relief roll. A letter or faxed memorandum will be sufficient; Fax to the Board office at (919) 571-4703.

Finally, the Board urges its licensees to assist in any way possible and to view their response to this natural disaster as a means of improving the public image of North Carolina's general contractors while rendering a much needed service. The Board welcomes your comments and suggestions on the actions to date and suggestions for further involvement.

Proposed Rules Amend Licensure, Application Requirements

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.0901 and .0907 amend Homeowners Recovery Fund rules defining “owner or former owner” and service requirements for notice of hearings. The Board proposes to repeal Rule 21 NCAC 12.0307, which requires the Board to notify the applicant about an application within two (2) weeks of the examination date.

The text of the proposed rules is printed below. The portion of the text with the strike-through has been deleted; new text is underlined.

Section .0200 - Licensing Requirements

.0202 Classification

(O) S(Metal Erection). 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 or riveting such metal products as, but not limited to, 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, ~~stadium and arena seating~~, bleachers, and fire ~~escapes~~, escapes, and seating for stadiums, arenas, and auditoriums.

.0204 Eligibility

(a) Limited License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of 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 represents exceed the total current liabilities by at least ~~twelve thousand five hundred dollars~~

~~(\$12,500.00);~~ twenty-five thousand dollars (\$25,000) 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) Successfully complete 70 percent of ~~each part~~ of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(b) Intermediate License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of 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 represents exceed the total current liabilities by at least fifty thousand dollars (\$50,000) 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) Successfully complete 70 percent of ~~each part~~ of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(c) Unlimited License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of 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 represents exceed the total current liabilities by at least one hundred thousand dollars (\$100,000) 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) Successfully complete 70 percent of ~~each part~~ of the examination given the

applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(d) ~~Should the financial statement submitted by the applicant fail to demonstrate~~ In lieu of demonstrating the required level of working capital, ~~the an applicant shall~~ may obtain a surety bond from a surety authorized to transact surety business in North Carolina pursuant to G.S. 58 Article 7, 16, 21, or 22. The surety shall provide proof that it maintains a rating from A.M. Best, or its successor rating organization, or 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. 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 ~~fifty thousand dollars (\$50,000.00)~~ two hundred fifty thousand dollars (\$250,000) for a limited license, ~~two hundred fifty thousand dollars (\$250,000.00)~~ five hundred thousand dollars (\$500,000) for an intermediate license, and ~~five hundred thousand dollars (\$500,000.000)~~ one million dollars (\$1,000,000) for an unlimited license. The bond shall be for the benefit of any person who is damaged by an act or omission of the applicant constituting breach of a construction contract or 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 immediately in writing. If the applicant fails to provide written proof of financial responsibility in

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Proposed Rules Amend Licensure, Application Requirements

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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. After a suspension of two years, the applicant shall fulfill all requirements of a new applicant for license. The practice of general contracting by an applicant whose license has been suspended pursuant to this Rule will subject the applicant to additional disciplinary action by the Board.

(e) Reciprocity. If an applicant is licensed as a general contractor in another state, the Board, in its discretion, need not require the applicant to successfully complete the written examination as provided by G.S. 87-15.1. However, the applicant must comply with all other requirements of these rules to be eligible to be licensed in North Carolina as a general contractor.

(f) Accounting and reporting standards. Working capital, balance sheet with current and fixed assets, current and long term liabilities, and other financial terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted accounting principles" as promulgated by the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and, if applicable, through pronouncements of the Governmental Accounting Standards Board or their predecessor organizations. An audited financial statement, an unqualified opinion, and other financial reporting terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted accounting standards" as promulgated by the American Institute of Certified Public Accountants through pronouncements of the Auditing Standards Board.

.0205 Filing Deadline/App Seeking Qual/Emp/Another

(a) Any application made pursuant to G.S. 87-10 for a new applicant seeking qualifications by employment of a person who has already passed an examination

shall be completed and filed at least 30 days before any regular or special meeting of the Board. At such meeting, the Board will consider the application. The regular meetings of the Board are in January, April, July and October of each year.

(b) 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 and Rule .0408(a) of this Chapter. A person may serve as a qualifier for the person's own individual license and for only one additional license. A person may not serve as a qualifier under this Rule if such person has not served as a qualifier for a license of the appropriate classification for more than two years prior to the filing of the ~~application~~ application found to be in complete order. 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 a qualifier for a licensee which has been disciplined by the Board.

(c) It is the responsibility of the holder of a general contractors license to notify the Board immediately in writing as to the termination date in the event the qualifying individual or individuals cease to be connected with the licensee. After such notice is filed with the Board, or the Board determines that the qualifying individual or individuals are no longer connected with the licensee, the license shall remain in full force and effect for a period of 30 days ~~thereafter~~, from the termination date, and then be cancelled, as provided by G.S. 87-10. Holders of a general contractors license are entitled to reexamination or replacement of the qualifying individual's credentials in accordance with G.S. 87-10, but may not engage in the practice of general contracting for any project whose cost exceeds the monetary threshold set forth in G.S. 87-1 after the license has been can-

celled, until another qualifying individual has passed a required examination.

.0209 Application

(a) Any application made pursuant to G.S. 87-10, when appropriate must be accompanied by a Certificate of Assumed Name as filed 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 the appropriate documents (Articles of Incorporation, Certificate of Authority, etc.) as 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.

Section .0300 - Application Procedure

.0307 Notice of Approval

~~Within two weeks of the examination, an applicant will be notified of the determination by the Board of his application. If the Board approves the application, the applicant will be notified also of the exact date and location of the examination.~~

Authority G.S. 87-1; 87-10.

Section .0400 - Examination

.0402 Subject Matter

(a) In light of the requirements of G.S. 87-10, the examinations given by the Board are designed to ascertain:

(1) the applicant's general knowledge of the practice of contracting in areas such as plan and specification reading, cost estimation, safety requirements, construc-

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Proposed Rules Amend Licensure, Application Requirements

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tion theory and other similar matters of general contracting knowledge;

(2) the applicant's knowledge of the practice of contracting within the classification or classifications of general contracting as indicated by the applicant to the Board in his application;

(3) the applicant's knowledge of the laws of the State of North Carolina relating to contractors, construction and liens, and the aspects and fundamentals of business management and operations.

(b) The content of the examination will depend on the classification or classifications of general contracting for which the applicant seeks licensure, as indicated by his application. Also, within the specialty contractor classification, examinations given by the Board are designed to test the applicant's knowledge of the particular trade, category or categories of specialty contracting indicated in his application. The Examination Information Procedures publication and other available materials describes the suggested examination resources and reference materials for ~~each examination.~~ examinations.

.0405 Examination Schedule

~~Examinations are approximately one day in duration and are given in March, June, September and December of each year. Although the exact date and location of each examination cannot be specifically determined in advance, the examinations are usually given during the second Tuesday, Wednesday, or Thursday of the month in question. However, in any event, an applicant will be notified of the exact date and location of an examination upon the approval of the application by the Board no later than two weeks prior to the date of the examination. 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 appropriate examinations provider concerning the actual date, time and location to report~~

for the examination or examinations requested.

.0410 Failing Examination; Reexamination

Persons taking the examination must receive a score of at least 70 ~~for each part of an examination~~ in order to pass the examination. Persons who do not receive a passing score of 70 or higher on ~~each required part of an examination shall have one calendar year (12 consecutive months) to retake and pass the required part of an examination, for the same classification. may not be reexamined for a period of at least 30 days following the date of any failed examination. The calendar year begins with the first examination date of the part of the examination resulting in a score of less than 70. If a person does not receive a score of 70 or higher on all parts of an examination within one calendar year, the person is required to take all parts of the examination as provided by G.S. 87-10(d).~~

Section .0900 - Homeowners Recovery Fund

.0901 Definitions

The following definitions shall 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" includes contracting for the construction or alteration of a single-family residential dwelling unit.
- (2) "Dishonest conduct" shall not include a mere breach of a contract.
- (3) "Incompetent conduct" is 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" includes the owner or former owner of real property who contracted with a general con-

tractor for the construction of a single-family residential dwelling unit. "Owner or former owner" shall not include a person who is a spouse, child, parent, grandparent, sibling, partner, associate, or employee of a general contractor whose conduct caused a reimbursable loss. In addition, the term shall not include general contractors or any financial or lending ~~institution. institution, or any owner or former owner of a single-family residential dwelling unit which has been the subject of an award from the Homeowners Recovery Fund resulting from the same dishonest or incompetent conduct.~~ "Owner or former owner" shall ~~not include the owner of real property who constructed or contracted for construction of a single-family residential dwelling unit without intending to occupy the single-family residential dwelling unit.~~

- (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 Volume VII of the North Carolina State Building Code.

.0907 Homeowners Recovery Fund Hearing

(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. This 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;

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DEFINITIONS

Consent Order: An order of the Board resulting from an agreement between the Board and a licensee regarding the revocation or suspension of the license to practice general contracting, or the conditions, limitations or restrictions placed on that license. This is a method of resolving or settling disciplinary or contested cases in lieu of a disciplinary hearing.

Revocation: A Board action which permanently terminates a license by effectively withdrawing that license to practice general contracting.

Suspension: A Board action which inactivates a license to practice general contracting for a set period of time.

Dismissal/Voluntary

Dismissal: A Board action dismissing a contested case, resulting in no disciplinary action against the licensee or Respondent.

Voluntary Surrender:

A licensee's relinquishing or tendering of the license to practice general contracting, pending an investigation or other action by the Board.

Admission of Violation: A document signed by a licensee who admits to the stated violations, agrees not to repeat them, but acknowledges that the Board will use the document against the licensee prospectively should such action become necessary.

Injunction: A Superior Court order entered against an unlicensed contractor who is illegally practicing general contracting. Such an order stops the illegal practice; a violation of the injunction is contempt of court.

Code: Provisions of the North Carolina State Building Code (Residential/Vol. VII and previous editions; General Construction/Vol. I)

Disciplinary Action

(The following Board Orders and other Board disciplinary actions reported here are not a complete summary of all activity or full representation of each case. Every effort is made for accuracy, but such is not guaranteed. Questions or requests for additional information about specific cases should be referred to the Board's Legal Section.)

Final Decisions

Gilbert L. Boger (Davie County; 097C228) License No. 37971. The Board conducted a full hearing of this matter on September 9, 1998 and issued its Final Agency Decision on September 22, 1998. Thereafter, Mr. Boger filed a Petition for Review of Final Agency Decision in the Superior Court of Davie County, which effectively stayed the Board's Decision. On August 12, 1999, a Consent Judgment was entered into, which both parties and attorneys consented, but agreed that it may be considered as having been heard during the June 21, 1999 Civil Session of Davie County Superior Court. The Consent Judgment cites that all differences between the parties have been resolved, that health problems have prompted Mr. Boger to voluntarily submit his license, but that he expressly denies this as an admission of liability. The parties agreed that Mr. Boger will not reapply for a general contractor license earlier than one year from the date of the filing of the Consent Judgment [August 13, 1999] and that his application would be subject to special consideration by the Board.

Trillium Development and Construction, L.L.C. (Catawba and Brunswick Counties; 98C33 and 99C139) License No. 37832. The Board

conducted a full hearing of these matters on September 8, 1999 and revoked the license of Trillium Development and Construction, but requested documentation on all current unfinished construction projects. The Board agreed that Trillium shall be allowed to complete all such projects, but shall not engage further in the practice of general contracting where the cost of the undertaking is \$30,000 or more.

Revocations or Surrenders of License

Patricia D. Creef t/a Creef Construction (Dare County; 99C148, 99C166 and 99C200) License No. 22282. On August 13, 1999, Patricia D. Creef t/a Creef Construction voluntarily surrendered the license of Creef Construction to the Board. Three complaints previously filed with the Board alleged that Patricia D. Creef t/a Creef Construction failed to comply with the NC Residential Building Code, failed to secure building permits and failed to return a deposit. The Board considers surrender of license as permanent revocation.

Lester Lee Creef (Dare County; 99C148, 99C166 and 99C200). On August 18, 1999, Lester Lee Creef volun-

tarily relinquished his examination qualification.

Sun Construction, Inc. (Pitt County; 98C160) License No. 36809. On August 20, 1999, Danny Daniels, Secretary-Treasurer of Sun Construction, Inc., voluntarily surrendered the corporate license to the Board. A complaint previously filed with the Board alleged that Sun Construction, Inc. had failed to comply with the NC Residential Building Code and had exceeded his license limitation. The Board considers surrender of license as permanent revocation.

Charles A. Hutcheson (Carteret County; 99C109) License No. 17050. On August 30, 1999, Charles A. Hutcheson voluntarily surrendered his license to the Board. An investigation into a complaint revealed that Charles A. Hutcheson failed to comply with the NC Residential Building Code when constructing a residence. The Board considers surrender of license as permanent revocation.

Innovative Design & Development of Landis, N.C., Inc. (Rowan County; 97C208) License No. 25202. On September 1, 1999, Garland Faw, President of Innovative Design & Development of Landis, N.C., Inc. voluntarily surrendered the corporate license to the Board. An investigation into a complaint revealed that Innovative Design & Development of Landis, N.C., Inc.

failed to build a residence according to the sealed drawings. The Board considers surrender of license as permanent revocation.

Synergy Builders, Inc. (Alamance County; 99C199) License No. 30913. On September 27, 1999, Charles W. Loftin, President of Synergy Builders, Inc., voluntarily surrendered the corporate license to the Board. A complaint previously filed with the Board alleged Synergy Builders, Inc. failed to pay subcontractors and that a lien was placed against the owner's property. The Board considers surrender of license as permanent revocation.

Waddell Builders, Inc. (Carteret County; 99C241) License No. 34048. On October 19, 1999, David Waddell, President of Waddell Builders, Inc. voluntarily surrendered the corporate license to the Board. A complaint previously filed with the Board alleged that Waddell Builders, Inc. failed to pay for materials or services for the complainant's home. The Board considers surrender of license as permanent revocation.

Roy L. Jones (New Hanover County; 99C151) License No. 30066. On October 15, 1999, Roy L. Jones voluntarily surrendered his license to the Board. An investigation into a complaint revealed that Roy L. Jones failed to comply with the NC Residential Building Code when constructing the residence. The Board considers surrender of license as permanent revocation.

Golden Key Homes, Inc. (New Hanover County) License No. 38763. On October 15, 1999, Roy L. Jones, President of Golden Key Homes, Inc., voluntarily surrendered the corporate license to the Board. The Board considers surrender of license as permanent revocation.

Keith Medley (Henderson County; 99C52) License No. 19959. On November 3, 1999, Keith Medley voluntarily surrendered his license to the Board. An investigation into a complaint previously filed with the Board revealed that Keith Medley failed to comply with the NC Residential Building Code. The investigation also revealed that Mr. Medley had entered into a contract for construction doing business as Keith Medley Builder, L.L.C., an unlicensed corporation. The Board considers surrender of license as permanent revocation.

Consent Orders (Licensees)

Todd Bryan Taylor (Randolph County; 97C43) License No. 29482. On July 16, 1999, a Consent Order was entered in which Mr. Taylor agreed to a 12-month probation, the violation of which would be followed by a 120-day license suspension. An investigation into the allegations of the complaint revealed that Mr. Taylor had commenced extensive renovations to a single-family dwelling without first obtaining the required permit.

Admissions of Violation (Licensees)

Ronald Vance Herman (Catawba County; 98C85) License No. 37072. On December 30, 1998, an Admission of Violation was filed in which Ronald Vance Herman admitted using his individual license number in practicing general contracting as a corporation. He also admitted failing to report on his renewal application that he had changed the style, name or nature of his business.

Crystal Coast Builders of Jacksonville, Inc. (Onslow County; 98C169) License No. 36390. An Admission of Violation was entered on July 15, 1999 in which Douglas D. Bulla, President, admitted failing to disclose liens on the corporation's original application for licensure and its 1998 renewal application, and installed roof shingles not to manufacturer's specifications as required by Code.

Southern Homes (Madison County; 98C238) License No. 28758. On August 19, 1999, an Admission of Violation was entered in which Bernie Edwards, on behalf of Southern Homes, admitted violating the NC Residential Building Code in the construction of a single-family dwelling in that there was a four-inch variation between the bottom step riser of the basement stairs and the other stair risers.

W. B. Dowell, Jr. (Wake County; 99C83) License No. 39819. An Admission of Violation was filed on September 23, 1999 in which W. B. Dowell, Jr. admitted using his general contractors license to obtain six permits for a related but unlicensed corporation.

Carolina Home Specialty Co. (Guilford County; 99C79) License No. 36506. On September 23, 1999, an Admission of Violation was filed in which Alan Bialkowski, on behalf of Carolina Home Specialty Co., admitted entering into a contract to perform structural and cosmetic repairs while failing to obtain a building permit for the work performed.

Ronald Gene Strickland (Robeson County; 99C104) License No. 17449. An Admission of Violation was filed on September 23, 1999 in which Mr. Strickland admitted violating sections of the NC Uniform Residential Building Code, Vol. I-B, 1968 Edition, in the installation of window flashing and girders.

Design/Build Properties, Inc. (Tennessee; 99C111) License No. 44004. On September 23, 1999, an Admission of Violation was filed in which Joel Tuck, on behalf of the corporation, admitted entering into a contract to practice general contracting for the amount of \$2,050,000 prior to obtaining a general contractors license.

S&D Builders, Inc. (Wake County; 99C74). The Board accepted the Admission of Violation of S&D Builders,

Inc. on September 23, 1999. Licensed for less than one year, S&D Builders, Inc. resolved its disciplinary case with the Board by executing the document admitting that S&D had built six houses prior to becoming a licensed general contractor.

Teresa D. Henderson (Iredell County; 98C06) License No. 29028. An Admission of Violation was filed on September 27, 1999 in which Teresa D. Henderson admitted signing for and securing a building permit for a related unlicensed corporation using the license number assigned to her as an individual.

Design/Build Development Services, Inc. (Tennessee; 99C112) License No. 40153. On October 19, 1999, an Admission of Violation was filed in which Joel Tuck admitted using his license to obtain a building permit for a related but unlicensed corporation.

Donald Elmer Guldin (Onslow County; 98C236 and 99C10) License No. 26748. An Admission of Violation was filed on October 22, 1999 in which Mr. Guldin admitted failing to disclose liens on his 1995 and 1996 renewal applications to the Board.

Injunctions (Unlicensed Contractors)

Default Judgment: Permanent Injunctions were obtained by entry of a Default Judgment in Wake County Superior Court against each of the unlicensed contractors listed below for prac-

ticing general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13. In two instances, the Sheriff was unable to locate the contractors, but the Board effected service either by newspaper publication or through the Secretary of State; nevertheless, the contractors were enjoined from further practice of general contracting (including bidding) in an amount of \$30,000 or more until such time as he/she becomes licensed by the Board.

Professional Home Improvements of Johnston County, Inc. (Johnston County; 98C178). Professional Home entered into a construction contract in an amount of \$68,500, but obtained a building permit for a construction cost of \$26,700. Default Judgment was entered in May 27, 1999.

PCR Renovations, Inc. (Wake County—Secretary of State; 98C122) PCR Renovations submitted a construction proposal in an amount of \$50,800, accepted payment and then abandoned the project. Default Judgment was entered on June 21, 1999.

RBM Homes, Inc. and Richard Brett Massey (Chatham County; 98C243) RBM Homes, Inc. and Richard Brett Massey contracted to construct a single-family residence for \$98,997, which was later increased in an Addendum to \$103,507. Default Judgment was entered on June 21, 1999.

Theodore Patrick Moore d/b/a Brothers Construction Co. and Brothers Construction Company, Inc. (Mecklenburg County publication)

Theodore Patrick Moore d/b/a Brothers Construction entered into a contract in the amount of \$336,000 for maintenance and repair of 33 condominiums. After starting the project, Theodore Patrick Moore obtained building permits for the project using a license number assigned to another, who had not authorized Mr. Moore's use of it. Subsequently, Mr. Moore incorporated his business and submitted an apartment renovation proposal for \$243,600 which was accepted. Default Judgment was entered June 21, 1999.

Bill Chuqui-Conder d/b/a King's Court Conservatories (Lincoln County; 99C49) Bill Chuqui-Conder d/b/a King's Court Conservatories contracted to remodel a screened porch and construct a conservatory for the amount of \$36,000. Default Judgment was entered on September 22, 1999.

Mozelle Daniels d/b/a Mozelle Daniels Construction (Cumberland County; 99C12) Mozelle Daniels d/b/a Mozelle Daniels Construction contracted to construct a home for \$239,892. Default Judgment was entered on September 22, 1999.

Consent Orders of Unlicensed Contractors: Permanent Injunctions were obtained by entry of a Consent Order in Wake County Superior Court concerning each of the following unlicensed contractors who practiced general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13, but who admitted to their wrongdoing, paid court costs and service fees and

cooperated with the Board in the matter.

Wilmington Awning, Inc. (New Hanover County; 98C273) Wilmington Awning, Inc. submitted a proposal to furnish and install hurricane shutters and storm panels on a motel for \$72,834 and was unaware that it was violating North Carolina law. A Consent Order was entered on May 21, 1999.

Bill Crain d/b/a Smokey Mountain Log Homes (Jackson County; 98C233) Billy Crain d/b/a Smokey Mountain Log Homes entered in a verbal contract for the turn-key construction of a log home for \$64,000. A Consent Order was entered on June 10, 1999.

Shane Richardson d/b/a Capital Construction (Edgecombe County; 99C11) Shane Richardson d/b/a Capital Construction contracted to repair a fire damaged home for \$60,692 believing he was not violating North Carolina law. A Consent Order was entered on June 24, 1999.

Albert L. Fielders (Forsyth County; 99C31) Albert L. Fielders entered into a verbal contract regarding the construction of a single-family residence and obtained a permit for a stated project cost of \$281,848. A Consent Order was entered on July 2, 1999.

Time Warner Telecom of North Carolina, LP ("TWTNC") (Delaware limited partnership licensed to do business in North Carolina; 98C165) TWTNC obtained a permit to operate authorizing

a right-of-way agreement from the City of Winston-Salem approving a cable television operation within the City and the underground fiber optic cable upon certain public rights-of-way within the City. TWTNC hired a then-unlicensed general contractor to install the underground fiber optic cable along the specified rights-of-way for a cost which exceeded \$30,000. TWTNC was enjoined from hiring unlicensed general contractors in North Carolina or otherwise practicing general contracting in North Carolina as defined in G.S. § 98-1 without proper licensure. The Consent Order was entered on July 14, 1999.

Phil Mocete d/b/a Not Just Decks (Union County; 98C265) Phil Mocete d/b/a Not Just Decks contracted to construct a two-car garage and bonus room for \$44,000 not believing he was violating North Carolina law. A Consent Order was entered on July 14, 1999.

John T. Ward d/b/a Ward Exteriors (Rockingham County; 99C44) John T. Ward d/b/a Ward Exteriors contracted to renovate a home for \$50,000, and change orders increased the amount to \$59,440. (Mr. Ward did not believe he was violating North Carolina law.) A Consent Order was entered on July 9, 1999.

Randy L. Trotter and R.L. Trotter Construction, LLC (Davidson County; 98C264) Randy L. Trotter was licensed at one time; however, the license was not renewed for

years 1998 and 1999. Mr. Trotter and R.L. Trotter Construction, LLC entered into a verbal contract to construct duplex apartments for \$56,110. A Consent Order was entered on July 9, 1999.

Standard Glass Company of Wilmington, Inc. d/b/a Weathermasters, a Division of Standard Glass (New Hanover County; 98C272) Standard Glass Company of Wilmington, Inc. d/b/a Weathermasters submitted a proposal to furnish and install storm panels for \$74,199 and was unaware this was in violation of North Carolina law. A Consent Order was entered on August 13, 1999.

Carl L. Hoffner, Jr. d/b/a Carl's Remodeling (Rowan County; 99C115) Carl L. Hoffner, Jr. d/b/a Carl's Remodeling undertook construction to remodel and add an addition to a home for an estimated price of \$63,503. A Consent Order was entered on September 23, 1999.

Julian T. Peele and Olivia E. Peele (Onslow County; 99C16) Julian T. Peele and Olivia E. Peele obtained a building permit as owner/builder and constructed a home for \$239,400. Prior to occupying the home for 12 months after completion as North Carolina law requires, the Peeles listed the residence for rent. A Consent Order was entered on September 23, 1999.

Gary Reedy d/b/a M-Pact Construction (Brunswick County; 99C161) Gary Reedy d/b/a M-Pact Construction

contracted to construct a single-family home for \$160,000. He believed his actions were consistent with North Carolina law because he was working with a licensed general contractor. A Consent Order was entered on October 7, 1999.

Pete Beasley (Onslow County; 99C57) Mr. Beasley obtained a building permit as owner-builder for the construction of a new home for \$90,000, but he did not reside there for the required 12 months prior to selling it. A Consent Order was entered on October 7, 1999.

United Roofing, Inc. (Guilford County; 99C125) United Roofing, Inc. bid upon and undertook construction of a roofing tearoff and replacement project of a church for a price in excess of \$30,000. A Consent Order was entered on October 15, 1999.

John Harrelson & Kenneth Smith d/b/a Harrelson & Smith Contractors (Pitt County; 99C27) John Harrelson & Kenneth Smith d/b/a Harrelson & Smith Contractors submitted a bid for \$198,495 to perform site preparation and demolition at a museum. Additionally, they submitted a license number belonging to another entity. A Consent Order was entered on October 15, 1999.

Eddy Hogan d/b/a Woodcrafters of Boone (Watauga County; 99C56) Eddy Hogan d/b/a Woodcrafters of Boone contracted to remodel a home for \$25,199, and change orders increased the

total cost to \$34,372. A Consent Order was entered on October 21, 1999.

Alpha Marine Corp. (New Hanover County; 98C256) Alpha Marine Corp., through a joint venture with a licensed general contractor, contracted to remove floating docks, install a pier, level and refurbish a gazebo and install plumbing for \$59,490. Alpha Marine Corp. believed that the joint venture was properly licensed and that its actions complied with North Carolina law. A Consent Order was entered on October 22, 1999.

Jeff Enterline d/b/a Enterline Construction Company (Wake County; 99C25) Jeff Enterline d/b/a Enterline Construction Company contracted to construct a master bedroom and garage addition for \$68,950. A Consent Order was entered on October 21, 1999.

John Eberhardt d/b/a Nightlife Productions (Wake County; 99C50) John Eberhardt d/b/a Nightlife Productions entered into an oral contract to remodel a restaurant for \$56,580. A Consent Order was entered on October 25, 1999.

Oscar A. Graham d/b/a Graham Realty & Construction (New Hanover County; 98C88) Oscar A. Graham d/b/a Graham Realty & Construction entered into a contract to construct a single-family residence for \$85,000. A Consent Order was entered on November 9, 1999.

OSHA's Focused Inspections Program Aimed At Safety Improvements

In direct response to the number of construction-related deaths that occurred in North Carolina last year, in October OSHA began conducting a new "emphasis program" to curb construction accidents in the State. The program will continue for the next five years; in the first year it will target Wake, Mecklenburg, Davidson, Rowan and Robeson Counties.

Every building permit issued in these counties since April 1999 will be assigned to one of 48 NC OSHA inspectors, who will conduct "Focused Compliance Inspections."

The Focused Inspections Initiative that became effective October 1, 1994 is significant departure from how OSHA had previously conducted construction inspections. This initiative recognizes the efforts of responsible contractors who have implemented effective safety and health programs/plans, and will encourage other contractors to adopt similar programs.

The Focused Inspections Initiative enables OSHA to focus on the leading hazards that cause 90% of construction injuries and deaths. They are:

- Falls (e.g. floors, platforms, roofs)
- Struck by (falling objects, vehicles)
- Caught in/between (cave-ins, unguarded machinery, equipment)
- Electrical (overhead power lines, power tools, cords, outlets, temporary wiring)

Under the Focused Inspection Initiative, compliance officers determine whether or not there is project coordination by the general contractor, prime contractor, or other such entity and conduct a brief review of the project's safety and health program/plan to determine whether or not the project qualifies for

a Focused Inspection by meeting these conditions:

- The project safety and health program/plan meets the requirements of 29 CFR 1926 Subpart C General Safety and Health Provisions, and
- There is a designated "competent person" responsible for and capable of implementing the program/plan.
- If the project meets the above criteria, an abbreviated walk-around inspection will be conducted, focusing on verification of the safety and health program/plan effectiveness by interviews and observation; the four leading hazards listed above, and for other serious hazards observed by the compliance officer.

As the compliance officer determines whether a project's safety and health program/plan is effective, if conditions observed on the project indicate otherwise, the officer can immediately terminate the Focused Inspection and conduct a Comprehensive Inspection. Discovery of serious violations during a

Focused Inspection need not automatically convert it into a Comprehensive Inspection—this decision is based on the professional judgment of the compliance officer.

A Comprehensive Inspection will be conducted when there is no coordination by the general contractor, prime contractor or other such entity to ensure that all employers provide adequate protection for their employees.

Remember that an OSHA "serious citation" costs \$7,000 and leaves a paper trail that stays with your company for three years, meaning a repeat offense anywhere in the State may cost even more. A "willful and egregious" citation costs \$70,000.

For more information, contact NCOSHA at 1(800)LaborNC, or Chip Murray, Carolinas AGC Safety Services Director at (704) 372-1350.

(Reprinted by permission Carolinas AGC Weekly Bulletin, October 1999.)

NCLBGC Examination Results

<u>May 1999</u>	<u>Passed</u>	<u>Failed</u>	<u>August 1999</u>	<u>Passed</u>	<u>Failed</u>
Building	275	198	Building	332	159
Residential	243	187	Residential	188	216
Highway	36	8	Highway	30	3
H(Grading & Excavating)	12	13	H(Grading & Excavating)	13	6
PU(Water Purification & Sewage Disposal)	3	1	PU(Water Purification & Sewage Disposal)	2	4
PU(Water Lines & Sewer Lines)	28	8	PU(Water Lines & Sewer Lines)	17	11
Specialties	25	21	Specialties	30	20
Public Utilities	20	15	Public Utilities	10	19
TOTAL	642	451	TOTAL	622	438

Proposed Rules Amend Licensure, Application Requirements

Continued from Page 5

(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 will 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 given proper notice. The Board may, in its discretion, order a continuance in order to give the party another opportunity to appear.

(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.

NASCLA National Association of State Contractors' Licensing Agencies

IF YOU NEED INFORMATION ON CONTRACTOR LICENSING IN OTHER STATES, YOU NEED A COPY OF THE CONTRACTOR'S STATE LICENSING INFORMATION DIRECTORY.

This publication identifies over 150 state agencies that regulate the construction industry. The directory summarizes the prequalification, licensing, examination and bonding requirements. Information on reciprocity, license classifications, and incorporating is also included. 190 pages. 1999 edition.

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Computerized Testing Now Offered To Examination Candidates

Effective November 1999, Licensing Board examinations will be administered by computer-based testing services—Experior Assessments and Sylvan Learning Systems, Inc. The new computer-based testing format enables licensing examinations to be scheduled, administered and scored more responsively and efficiently than “paper-and-pencil” tests, which the Board has used in the past. Computer-based testing enables candidates to schedule exams administered at one of over 300 Sylvan Technology Centers nationwide; upon completion, CBT exams are scored immediately. The Board office will continue to handle all initial applications processing and examination requests. For further information concerning examinations, please contact the Licensing Board at (919) 571-4183.

Renewing For Year 2000—Here’s A License Renewal Checklist

In mid-October we mailed over 24,000 renewal applications to actively licensed contractors. North Carolina law provides that all general contractors licenses expire on December 31, 1999, and for many reasons it is important to renew on a timely basis. For example, North Carolina building inspection departments frequently either contact our office or access our web site to verify the status of a licensed contractor (inactive/active). Inspections departments have the authority to revoke permits or deny the issuance of new building permits for applicants who have not renewed their licenses.

Here are some suggestions to simplify the process of renewing your license.

- Take the time to read the instruction sheet enclosed with your renewal application form. Renewals are frequently returned to the sender due to missing signatures, incomplete financial information or for simply failing to report other required information on the application.
- For your protection, notify the office when a qualifier is terminated or is no longer affiliated with your business.
- Check to make sure that each question on the renewal application has been answered, that the form is properly signed, and that the appropriate fee is attached.

Remember, since the renewal is a legal document, we are not authorized to make changes to the application.

Other important points to remember about license renewals:

- Renewals received and approved after January 31, 1998 (for licenses not renewed for 1999) will be assessed a \$10 penalty fee for *each month* the renewal is late.
- The renewal date for a license is the actual date the renewal is received and approved by the office. Postmark dates do not apply.

If you have not received a renewal package, please notify the Board office in writing requesting the application. Please include your license number, exact name in which you or your business is licensed, correct mailing address and telephone number. We do not accept renewals on an expired form.

You can verify the status of your renewal by accessing our Web site at www.nclbge.com. Renewed licenses will show a current date listed at the “renewal date.” For example, if your renewal is received and approved prior to December 31, 1999, the renewal date will be 1-1-00. If the renewal is received and approved after December 31, 1999, the date listed on the Web site will be the date it was received and in order for approval.



North Carolina Licensing Board for General Contractors

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