

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12A .0201

**DEADLINE FOR RECEIPT: Friday, June 11, 2021**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*For purposes of consistency, please consider saying "As used in G.S. 87-1(b), "**completion**" occurs upon..." in (1); "As used in G.S. 87-1(a), "**cost of undertaking**" means the..." in (2); and "As used in G.S. 87-10(a1), "**value**" means..." in (6).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, May 28, 2021

1 21 NCAC 12A .0201 is amended as published in 35:11 NCR 1154-1157 as follows:

2  
3 **SECTION .0200 - LICENSING REQUIREMENTS**  
4

5 **21 NCAC 12A .0201 DEFINITIONS**

6 The following definitions shall apply to the Rules in this Chapter:

- 7 (1) Completion: As used in G.S. 87-1(b), occurs upon issuance of a certificate of occupancy by the  
8 permitting authority with jurisdiction over the project.
- 9 (2) Cost of the undertaking: As used in G.S. 87-1(a), means the final price of a project, excluding the  
10 cost of land, as evidenced by the ~~contract~~, contract and any subsequent amendments, or in the  
11 absence of a contract, permit records, invoices, and cancelled checks.
- 12 (3) Misconduct: As used in G.S. 87-11, "misconduct" includes allowing an unlicensed person or entity  
13 to use a license or examination credential on an undertaking where a license is required. Misconduct  
14 also includes allowing a licensed person or entity to use a license or examination credential on an  
15 undertaking for which the user does not hold proper classification or limitation. Misconduct also  
16 includes dishonest or fraudulent conduct by a qualifier related to the attendance of a continuing  
17 education class described in G.S. 87-10.2.
- 18 ~~(3)~~(4) Personally: As used in G.S. 87-14(a)(1), "personally" means the physical presence of the owner of  
19 the property and excludes the use of a power of attorney.
- 20 ~~(4)~~(5) Solely for occupancy: As used in G.S. 87-1(b), "solely for occupancy" is restricted to the family of  
21 a person, the officers and shareholders of a firm or corporation, and guests and social invitees where  
22 no consideration is received. For purposes of G.S. 87-1(b)(2), "family" is defined as a spouse or  
23 other family member living in the same household.
- 24 ~~(5)~~(6) Value: As used in G.S. 87-10(a1), means the same as "cost of the undertaking."  
25

26 *History Note: Authority G.S. 87-1, 87-10, 87-10.2, and 87-14;*  
27 *Eff. February 1, 1976;*  
28 *Readopted Eff. September 26, 1977;*  
29 *Amended Eff. January 1, 1983;*  
30 *Repealed Eff. May 1, 1989;*  
31 *Codifier approved agency's waiver request to reuse rule number;*  
32 *Eff. September 1, 2019;*  
33 *Recodified from 21 NCAC 12 .0201 Eff. January 2, ~~2020~~, 2020;*  
34 *Amended Eff. July 1, 2021.*

**REQUEST FOR TECHNICAL CHANGE**

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12A .0212

**DEADLINE FOR RECEIPT: Friday, June 11, 2021**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*In (a), line 6, should “and for assuring” be “and assure”?*

*In (b)(2), please change “his/her” to “his or her”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, May 28, 2021

1 21 NCAC 12A .0212 is adopted with changes as published in 35:16 NCAC 1810-1811 as follows:

2  
3 **21 NCAC 12A .0212 PERMITS AND INSPECTIONS**

4 (a) A licensee shall obtain all necessary building permits from the local Code Enforcement Agency before  
5 commencing any work for which a building permit is required. After obtaining the necessary building permits, a  
6 licensee shall obtain all required inspections and for assuring that all [required] inspections required by codes adopted  
7 by the N.C. Building Code Council are passed by the local Code Enforcement Official or a designee. Absent a written  
8 acknowledgement by a local Code Enforcement Official, a licensee shall not be relieved of his, her, or its responsibility  
9 to complete all required inspections until a certificate of compliance or the equivalent is obtained from the local Code  
10 Enforcement Agency.

11 (b) A licensee shall not allow a building permit to be obtained or allow his, her, or its license number to appear on a  
12 building permit application unless:

13 (1) the licensee is the owner of the property; or

14 (2) the licensee has an agreement with the property owner or his/her designee to perform work described  
15 in the building permit.

16 (c) Failure to comply with this Rule shall constitute misconduct as described in G.S. 87-11.

17  
18 *History Note: Authority G.S. 87-1; 87-11; 87-14; 160A-417; 160D-1110;*  
19 *Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12A .0503

**DEADLINE FOR RECEIPT: Friday, June 11, 2021**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please consider revising (f) to say something like "If a licensee's status is invalid for reasons other than **those set forth** in G.S. 87-10.2(h)..."*

*In (f), should "its" be "his, her, or its" for purposes of consistency?*

*In (f), line 2, are these continuing education hours? If so, please consider saying something like "... proof of completion of six elective hours and two mandatory hours of **continuing education in accordance with 21 NCAC xx xxxx**..." and provide whatever the appropriate cross-reference is.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, May 28, 2021

1 21 NCAC 12A .0503 is amended as published in 35:11 NCR 1154-1157 as follows:

2  
3 **21 NCAC 12A .0503 RENEWAL OF LICENSE**

4 (a) Applications for renewal of license shall contain the following:

- 5 (1) the Social Security Number of the applicant and qualifier(s) and tax identification number for
- 6 corporations, LLCs, or partnerships;
- 7 (2) the applicant's contact information;
- 8 (3) the name of business under which licensee will be operating, if any;
- 9 (4) information regarding any changes made in the status of the licensee's business, since the initial
- 10 application or last renewal was submitted to the Board, whichever is later;
- 11 (5) confirmation of license limitation and classifications;
- 12 (6) information about all crimes of which the applicant has been convicted since the initial application
- 13 or last renewal was submitted to the Board, whichever is later;
- 14 (7) documentation regarding all crimes referenced above;
- 15 (8) information indicating whether the applicant has any disciplinary history with any other
- 16 occupational licensing, registration, or certification agency since the initial application or last
- 17 renewal was submitted to the Board, whichever is later;
- 18 (9) an attestation that the applicant maintains continued financial responsibility pursuant to Rule .0204
- 19 of this Chapter;
- 20 (10) if applicable, proof that the surety bond is maintained in compliance with Rule .0204 of this Chapter;
- 21 (11) if necessary, proof of completion of continuing education requirements; and
- 22 (12) the application fee and any accrued late fees as set forth in Rule .0304 of this Chapter.

23 (b) A licensee shall submit an audited financial statement as evidence of continued financial responsibility in  
24 accordance with Rule .0204 of this Chapter if the Board finds that the licensee is insolvent, financially unstable, or  
25 unable to meet its financial responsibilities based upon the information provided in the renewal application.

26 (c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of  
27 its filing. A licensee in bankruptcy shall provide to the Board an agreed-upon procedures report on a form provided  
28 by the Board or an audited financial statement with a classified balance sheet as part of any application for renewal.

29 (d) A corporate license shall not be renewed unless it is in good standing with the N.C. Department of the Secretary  
30 of State.

31 (e) Upon receipt of a written request by or on behalf of a licensee who is currently in good standing with the Board,  
32 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  
33 tax return, the Board shall grant that same extension of time for complying with renewal application deadlines, for  
34 paying renewal fees, and for meeting any other requirement or conditions related to the maintenance or renewal of the  
35 license issued by the Board. The applicant shall furnish to the Board a copy of the military orders or the extension  
36 approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

1 (f) If a licensee’s status is invalid for reasons other than G.S. 87-10.2(h) and the licensee requests to renew its license,  
2 the licensee must submit proof of completion of six elective hours and two mandatory hours for each year not  
3 previously renewed and for the current license year.

4  
5 *History Note: Authority G.S. 87-1; 87-4; 87-10; 87-10.2; 87-12; 87-13; 93B-15;*  
6 *Eff. February 1, 1976;*  
7 *Readopted Eff. September 26, 1977;*  
8 *ARRC Objection March 19, 1987;*  
9 *Amended Eff. May 1, 1989; August 1, 1987;*  
10 *Temporary Amendment Eff. June 28, 1989 for a period of 155 Days to Expire on December 1, 1989;*  
11 *Amended Eff. December 1, 1989;*  
12 *RRC Removed Objection of March 19, 1987 Eff. August 20, 1992 based on subsequent amendment;*  
13 *Amended Eff. September 1, 1992;*  
14 *Temporary Amendment Eff. May 31, 1996;*  
15 *Amended Eff. April 1, 2014; June 1, 2011; June 1, 2003; April 1, 2003; August 1, 2002; April 1,*  
16 *1997;*  
17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*  
18 *2016;*  
19 *Amended Eff. September 1, 2019; April 1, 2018;*  
20 *Recodified from 21 NCAC 12 .0503 Eff. January 2, 2020;*  
21 *Temporary Amendment Eff. January 2, 2020;*  
22 *Amended Eff. September 1, ~~2020~~ 2020;*  
23 *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12A .0607

**DEADLINE FOR RECEIPT: Friday, June 11, 2021**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*G.S. 150B-19 allows an agency to “waive or modify a requirement set in a rule” only if a rule “establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.” As written, the factors provided in Items (1) through (7) of this Rule appear to apply when the Board receives a request from an outside party and does not address how the Board will determine whether to waive a rule “on its own initiative.” Please consider breaking “The Board may also waive any rule in this Chapter that is not statutorily required upon its own initiative” into a separate Paragraph (b) and provide some parameters as to when this will apply and how the Board will determine whether it is appropriate.*

*Not all of the factors provided appear to pertain to the Board. Was the intent for the Board to use the same factors as your licensees? Please review and revise as necessary.*

*If you intend for “notice and opposition” to be a factor that the Board will use when waiving a rule on its own initiative, how will you provide this notice?*

*How long will the waiver last? Because this language of this Rule as currently written is so broad and isn't really tied to anything, such as a State of Emergency declared by the Governor or the pandemic, I read this as allowing the Board to change their rules without notice under any circumstances whatsoever. Please provide some additional information on the duration of the waiver.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, May 28, 2021



1 21 NCAC 12A .0607 is adopted as published in 35:11 NCR 1154-1157 as follows:

2

3 **21 NCAC 12A .0607 WAIVER**

4 The Board may waive any rule in this Chapter that is not statutorily required upon its own initiative or if a licensee,  
5 qualifier, continuing education course provider, or continuing education course instructor submits a written request.

6 Factors the Board shall use in determining whether to grant the waiver are:

7 (1) degree of disruption to the Board;

8 (2) cost to the Board;

9 (3) degree of benefit to the public;

10 (4) whether the requesting party had control over the circumstances that required the requested waiver;

11 (5) notice to and opposition by the public;

12 (6) need for the waiver; and

13 (7) previous requests for waivers submitted from the requesting party.

14

15 *History Note: Authority G.S. 87-10.2(j); 150B-19;*

16 *Emergency Adoption Eff. April 24, 2020;*

17 *Temporary Adoption Eff. July 24, ~~2020~~ 2020;*

18 *Eff. July 1, 2021.*

1 21 NCAC 12B .0204 is amended as published in 35:11 NCR 1154-1157 as follows:

2

3 **21 NCAC 12B .0204 ATTENDANCE; ROSTER REPORTS AND CERTIFICATES**

4 (a) Qualifiers shall provide proof of identity upon arrival at a class session.

5 (b) At the conclusion of any continuing education course, the provider shall submit to the Board a CE Roster Report  
6 verifying each qualifier's completion of the course. The CE Roster Report shall be submitted to the Board and shall  
7 contain the following:

8 (1) provider's name;

9 (2) provider's ID number assigned by the Board;

10 (3) course instructor's name and ID number;

11 (4) course's name and ID number;

12 (5) course completion date; ~~and~~

13 (6) name and qualifier ID number of each student who completed the ~~course.~~ course; and

14 (7) name, qualifier ID number, and reason given for each student who requested but was denied credit  
15 by the provider.

16 (c) Providers shall submit the CE Roster Report electronically to the Board within seven calendar days following the  
17 end of any course, but in no case later than December 7.

18 (d) Providers shall submit the per student fee required by 21 NCAC 12A .0304 with the CE Roster Report.

19 (e) Providers shall provide a course completion certificate to each student who completes an approved continuing  
20 education course. Providers shall provide a printed or electronic certificate to a student within 10 days following the  
21 course, but in no case later than December 7, for any course completed prior to that date.

22 (f) A student shall not be issued a completion certificate and shall not be reported to the Board as having completed  
23 a course unless the student satisfies the attendance requirements set forth in this Subchapter.

24

25 *History Note: Authority G.S. 87-10.2(d) and (e);*

26 *Temporary Adoption Eff. January 2, 2020;*

27 *Eff. September 1, 2020- 2020;*

28 *Amended Eff. July 1, 2021.*

**REQUEST FOR TECHNICAL CHANGE**

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12B .0301

**DEADLINE FOR RECEIPT: Friday, June 11, 2021**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*In (d), please delete or define "directly"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, May 28, 2021

1 21 NCAC 12B .0301 is amended as published in 35:11 NCR 1154-1157 as follows:

2 **SECTION .0300 – COURSES**

3  
4 **21 NCAC 12B .0301 COURSE REQUIREMENTS**

5 (a) All continuing education courses shall:

- 6 (1) cover subject matter related to the practice of general contracting and offer knowledge or skills that  
7 will enable general contractors to better serve consumers and the public interest;  
8 (2) offer two or four continuing education credit hours;  
9 (3) include materials for students that provide the information to be presented in the course; and  
10 (4) be taught only by an instructor who possesses education or experience in a field related to the course.

11 (b) Mandatory courses shall cover subject matter as established by the Board, including statutes and rules applicable  
12 to general contracting, changes to the N.C. Building Codes, case studies of Board investigations, and relevant court  
13 decisions.

14 (c) Providers shall submit all elective courses to the Board for approval pursuant to Rule .0302 of this Subchapter.

15 (d) Elective courses shall be directly related to the practice of general contracting as set forth in Article 1 of Chapter  
16 87 in the North Carolina General Statutes. Instructional time and materials shall be utilized for instructional purposes  
17 only.

18 (e) All elective courses shall include the following disclaimer within the first three pages or slides of the course  
19 materials: THE NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS HAS APPROVED  
20 THIS COURSE ONLY AS TO ITS RELEVANCE TO THE PRACTICE OF GENERAL CONTRACTING IN  
21 NORTH CAROLINA. THE COURSE PROVIDER AND INSTRUCTOR ARE RESPONSIBLE FOR THE  
22 ACCURACY OF THE CONTENT AND COMPLIANCE WITH ALL STATE AND FEDERAL LAWS DURING  
23 THE ADMINISTRATION OF THE COURSE.

24 ~~(f)~~ Providers shall obtain approval from the Board before making any changes in the content of a prior approved  
25 elective course. Requests for approval of changes shall be made in writing.

26  
27 *History Note: Authority G.S 87-10.2(b);*  
28 *Temporary Adoption Eff. January 2, 2020;*  
29 *Eff. September 1, 2020- 2020;*  
30 *Amended Eff. July 1, 2021.*