

21 NCAC 12 .0103 is amended, with changes, as published in 28:06 NCR 534-535:

21 NCAC 12 .0103 STRUCTURE OF BOARD

~~(a) Organization. The Board consists of nine members who are appointed by the Governor of North Carolina, with its composition in terms of its members being specified in G.S. 87-2.~~

~~(b) (a) Officers. Annually, during the April meeting, the Board elects shall elect~~ from its members a Chairman and Vice-Chairman. The Chairman shall preside over all meetings of the Board and perform such other duties as he may be directed to do by the Board. The Vice-Chairman shall function as Chairman ~~in the absence of if the Chairman. Chairman is unavailable.~~

~~(c) (b) Secretary-Treasurer. In addition to those duties and responsibilities required of him by the North Carolina General Statutes, G.S. 87-8,~~ the Secretary-Treasurer, as the Board's Chief Administrative Officer, ~~specifically~~ 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 by the Board.

~~(d) (c) Meetings of the Board.~~

- (1) Regular meetings shall be held during January, April, July and October of each year at the ~~main office of the Board Board's office~~ or at any other place so designated by the Board.
- (2) Special Meetings. Special meetings ~~shall be held as set out in the bylaws of the Board. of the Board shall be held at the request of the Chairman or any two of the members at the main office of the Board or at any place fixed by the person or persons calling the meeting.~~
- (3) Notice of Meetings. Regular meetings of the Board shall be held after each Board member is duly notified by the Secretary-Treasurer of the date of the meeting. However, any person or persons requesting a special meeting of the Board shall, at least two days before the meeting, give notice to the other members of the Board of that meeting by ~~any usual means of communication. electronic mail or notification on the Board's website.~~ Such notice must specify the purpose for which the meeting is called.

~~(4) Quorum. Any five members of the Board which includes either the Chairman or Vice Chairman [A majority of the members of the Board] shall constitute a quorum.~~

*History Note: Authority G.S. 87-1 to 87-8; 87-2; 87-4; 87-6; 87-7.
Eff. February 1, 1976;*

1 *Readopted Eff. September 26, 1977;*
2 *Amended Eff. April 1, 2014; August 1, 2002; January 1, 1992; May 1, 1989; January 1, 1983.*
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21 NCAC 12 .0202 is amended **with changes** as published in 28:06 NCR 535-538 as follows:

21 NCAC 12 .0202 CLASSIFICATION

(a) A general contractor must be certified in one of five classifications. These classifications are **as follows:**

- (1) Building Contractor. This classification covers all building construction activity including: commercial, industrial, institutional, and all residential building ~~construction;~~ **construction.** ~~It includes parking decks; decks;~~ all site work, grading and paving of parking lots, driveways, sidewalks, ~~and curbs, gutters, gutters; storm drainage, retaining or screen walls, and water and wastewater systems which are ancillary to the aforementioned structures and improvements; and hardware and accessory structures, structures; and indoor and outdoor recreational facilities including natural and artificial surface athletic fields, running tracks, bleachers, and seating. [Covers]~~ **It also covers** and 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).
- (2) Residential Contractor. This classification covers all construction activity pertaining to the construction of residential units which 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 the 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 ~~those whose~~ 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 may 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),

1 PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water
2 Purification and Sewage Disposal), and S(Swimming Pools).

3 (5) Specialty Contractor. This classification covers all construction operation and performance of
4 contract work outlined as follows:

5 (A) H(Grading and Excavating). This classification covers the digging, moving and placing
6 of materials forming the surface of the earth, excluding air and water, in such a manner
7 that the cut, fill, excavation, grade, trench, backfill, or any similar operation can be
8 executed with the use of hand and power tools and machines commonly used for these
9 types of digging, moving moving, and material placing. It covers work on earthen dams
10 and the use of explosives used in connection with all or any part of the activities
11 described in this Subparagraph. It also includes clearing and grubbing, and erosion
12 control activities.

13 (B) S(Boring and Tunneling). This classification covers the construction of underground or
14 underwater passageways by digging or boring through and under the earth's surface
15 surface, including the bracing and compacting of such passageways to make them safe
16 for the purpose intended. It includes preparation of the ground surfaces at points of
17 ingress and egress.

18 (C) PU(Communications). This classification covers the installation of the following:

19 (i) All all types of pole lines, and aerial and underground distribution cable for
20 telephone systems;

21 (ii) Aerial aerial and underground distribution cable for Cable cable TV and Master
22 Antenna master antenna TV Systems systems capable of transmitting R.F.
23 signals;

24 (iii) Underground underground conduit and communication cable including fiber
25 optic cable; and

26 (iv) Microwave microwave systems and towers, including foundations and
27 excavations where required, when the microwave systems are being used for the
28 purpose of transmitting R.F. signals; and installation of PCS or cellular
29 telephone towers and sites.

30 (D) S(Concrete Construction). This classification covers the construction and installation of
31 foundations, pre-cast silos and other concrete tanks or receptacles, prestressed
32 components, and gunite applications, but excludes bridges, streets, sidewalks, curbs,
33 gutters, driveways, parking lots lots, and highways.

34 (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction,
35 installation, alteration, maintenance maintenance, or repair of an electrical wiring system,
36 including sub-stations or components thereof, which is or is intended to be owned,
37 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~~ ~~maintenance~~, or repair of systems for distribution of petroleum fuels, petroleum distillates, natural gas, ~~chemicals~~ ~~chemicals~~, and slurries through pipeline from one station to another. It includes all excavating, ~~trenching~~ ~~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~~ ~~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~~ ~~backfill~~, and erosion control as part of such construction.

(H) PU(Water Purification and Sewage Disposal). This classification covers the performance of construction work on water and wastewater ~~systems~~ ~~systems~~; water and wastewater treatment ~~facilities~~ ~~facilities~~; and all site work, grading, and paving of parking lots, driveways, sidewalks, and curbs and gutters which 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 such work on water and wastewater treatment facilities.

(I) S(Insulation). This classification covers the installation, ~~alteration~~ ~~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~~ ~~equipment~~, and ancillary lines and piping.

(J) S(Interior Construction). This classification covers the installation of acoustical ceiling systems and ~~panels~~ ~~panels~~, drywall 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, brick~~ concrete block, gypsum partition tile, pumice ~~block block~~, or other lightweight and facsimile units and products common to the masonry industry;
 - (ii) ~~Installation installation~~ of fire clay products and refractory construction; and
 - (iii) ~~Installation 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 construction~~, and repair of railroad lines including:
- (i) ~~The the~~ clearing and filling of rights-of-way;
 - (ii) ~~Shaping, shaping~~, compacting, ~~setting setting~~, and stabilizing of road beds;
 - (iii) ~~Setting setting~~ ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal markers, retaining walls, dikes, ~~fences 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 ~~to~~ 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 covers~~:
- (i) ~~The the~~ field fabrication, erection, ~~repair 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 equipment~~, and structure; and
 - (ii) ~~The the~~ layout, assembly and erection by welding, bolting or riveting such 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 service~~, and repair of all swimming pools. It includes:
- (i) ~~Excavation excavation~~ and grading;

- (ii) ~~Construction~~ ~~construction~~ of concrete, gunite, and plastic-type pools, pool decks, and walkways, and tiling and coping; and
- (iii) ~~Installation~~ ~~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~~ ~~installation~~, and repair of wind turbines, wind ~~generators~~ ~~generators~~, and wind power units. It includes assembly of blades, generator, turbine ~~structures~~ ~~structures~~, and towers. It also includes ancillary foundation work, field fabrication of metal ~~equipment~~ ~~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- that includes~~ ~~include~~ passing the ~~examination~~ ~~examinations~~ for the classifications in question. The license granted to an applicant who meets the qualifications for all classifications ~~set forth in this Rule~~ will carry with it a designation of "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.

21 NCAC 12 .0204 is amended **with changes** as published in 28:06 NCR 538-539 as follows:

21 NCAC 12 .0204 ELIGIBILITY

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

- (1) Be entitled to be admitted to the examination given by the Board **in light of and must 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 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) ~~Successfully complete 70 percent of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant; Pass the examination given by the Board for the specific contracting classification chosen by the applicant with a score of 70 percent or higher;~~ and
- (4) Provide to the Board an audited financial statement with a classified balance sheet as part of the application, if the applicant or any owner, principal, or qualifier is in bankruptcy or has been in bankruptcy within seven years prior to the filing of the application. This requirement does not apply to shareholders of an applicant that is a publicly traded corporation.

(b) Intermediate License. The applicant for an intermediate license must:

- (1) Be entitled to be admitted to the examination given by the Board **in light of and must 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 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) ~~Successfully complete 70 percent of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant. Pass the examination given by the Board for the specific contracting classification chosen by the applicant with a score of 70 percent or higher.~~

(c) Unlimited License. The applicant for an unlimited license must:

- (1) Be entitled to be admitted to the examination given by the Board **in light of and must 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 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) ~~Successfully complete 70 percent of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant. Pass the examination given by the Board for the specific contracting classification chosen by the applicant with a score of 70 percent or higher.~~

(d) **Surety Bonds.** In lieu of demonstrating the required level of working capital required by this Rule or net worth under Subparagraph (a)(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. 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 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 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~~ 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~~ is suspended until written proof of compliance is provided.

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

~~(e) (f)~~ **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~~ An applicant that requests reciprocity as set forth in G.S. 87-15.1 must comply with all other requirements of the rules in this Chapter to be eligible to be licensed in North Carolina as a general contractor.

~~(f) (g)~~ **Accounting and reporting standards.** Financial statements submitted by applicants to the Board shall conform to United States "generally accepted accounting principles" (GAAP). The Board ~~shall accept~~ may require non-GAAP financial statements from ~~individual~~ 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 such circumstances when non-GAAP presentation is necessary to ascertain the working capital or net worth of the applicant are when the only exception to GAAP is that assets and liabilities are classified as "current" and "noncurrent." "noncurrent" on personal financial statements and when ~~The Board shall accept non-GAAP financial statements from applicants wherein~~ the only exception to GAAP is that the particular applicant is not combined with

1 a related entity into one financial statement pursuant to AICPA Financial Interpretation 46R (ASC 810). ~~FIN 46R.~~
2 The terminologies, working capital, balance sheet with current and fixed assets, ~~and~~ current and long term liabilities,
3 ~~and any other accounting terminologies~~, used herein shall be construed in accordance with ~~those standards referred~~
4 ~~to as "generally accepted accounting principles" (GAAP)~~ GAAP Standards as promulgated by the Financial
5 Accounting Standards Board (FASB). The terminologies, audited financial ~~statements and statements~~, statement,
6 unqualified opinion, ~~and any other auditing terminologies~~ used herein shall be construed in accordance with those
7 standards referred to as "generally accepted auditing standards" ~~(GAAS); (GAAS) ["GAAS"]~~ as promulgated by
8 the American Institute of Certified Public Accountants (AICPA).

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10 *History Note:* Authority G.S. 87-1; 87-4; 87-10; 87-15.1;
11 *Eff. February 1, 1976;*
12 *Readopted Eff. September 26, 1977;*
13 *Amended Eff. January 1, 1983;*
14 *ARRC Objection March 19, 1987;*
15 *Amended Eff. May 1, 1989; August 1, 1987;*
16 *Temporary Amendment Eff. June 28, 1989 for a Period of 155 Days to Expire on December 1,*
17 *1989;*
18 *Amended Eff. December 1, 1989;*
19 *Temporary Amendment Eff. May 31, 1996;*
20 *RRC Removed Objection Eff. October 17, 1996;*
21 *Amended Eff. August 1, 1998; April 1, 1997;*
22 *Temporary Amendment Eff. August 24, 1998;*
23 *Amended Eff. April 1, 2014; April 1, 2013; August 1, 2008; April 1, 2006; March 1, 2005; August*
24 *1, 2002; April 1, 2001; August 1, 2000.*
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21 NCAC 12 .0205 is amended **with changes** as published in 28:06 NCR 539 as follows:

21 NCAC 12 .0205 FILING DEADLINE/APP SEEKING QUAL/EMP/ANOTHER

(a) Any application made pursuant to G.S. 87-10 for a new applicant seeking **qualifications qualification** 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 shall 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 no more than two licenses. 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~~ **four** years prior to the filing of the application **found to be in complete order, currently under review.** 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 ~~which~~ **that** has been disciplined by the Board.

(c) The holder of a general contractors license shall 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 90 days from the termination date, and then **be is** cancelled, as provided by G.S. ~~87-10~~ **87-10(c).** 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 cancelled, until another qualifying individual has passed **a required an** examination.

*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.

1 21 NCAC 12 .0209 is amended, with changes, as published in 28:06 NCR 539-540 as follows:

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3 **21 NCAC 12 .0209 APPLICATION**

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

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

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

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

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16 *History Note: Authority G.S. 87-1; 87-4; 87-10;*

17 *Eff. August 1, 2000.*

18 *Amended Eff. April 1, 2014.*
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21 NCAC 12 .0309 is adopted with changes as published in 28:06 NCR 540 as follows:

21 NCAC 12 .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 ~~upon~~ to the applicant ~~satisfying~~ who satisfies the following conditions:

- (1) ~~Submit~~ submission of a complete Application for License to Practice General Contracting;
- (2) ~~Submit~~ submission of a license fee in accordance with G.S. 87-10;
- (3) ~~Submit written evidence demonstrating that the applicant is currently serving as an active member~~
~~of the U.S. military;~~
- (4) ~~(3)~~ Provide providing evidence documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
- (5) ~~(4)~~ Demonstrate demonstrating 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~~, 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 ~~upon~~ to the applicant ~~satisfying~~ who satisfies the following conditions:

- (1) ~~Submit~~ submission of a complete Application for License to Practice General Contracting;
- (2) ~~Submit~~ submission of a license fee in accordance with G.S. 87-10;
- (3) ~~Submit~~ submission of written ~~evidence~~ documentation demonstrating that the applicant is married to an active member of the U.S. military;
- (4) ~~Provide~~ providing evidence documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2); ~~and~~
- (5) ~~Demonstrate~~ demonstrating 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~~, committed; and
- (6) is in good standing and has not been disciplined by the agency that had jurisdiction to issue the
license, certification, or permit.

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

21 NCAC 12 .0701 is amended **with changes** as published in 28:06 NCR 540-541 as follows:

21 NCAC 12 .0701 IMPROPER PRACTICE

(a) **Preferring Charges. Complaint.** Any person who believes that any licensed general contractor is in violation of the provisions of G.S. 87-11 may prefer charges against that person or corporation by setting forth in writing those charges and swearing to their authenticity. The charges shall be filed with the Secretary-Treasurer of the Board at the Board's address in Rule .0101 of this Chapter.

(b) Preliminary or Threshold Determination:

(1) A **complaint charge, properly filed, filed in accordance with G.S. [87-11(a)(1)] 87-11(a1)** ~~shall be initially referred to the review committee.~~ **shall be forwarded to a staff investigator for investigation. [Simultaneously.]**

(2) ~~The review committee shall be a committee made up of the following individuals:~~

(A) ~~one member of the Board;~~

(B) ~~the Secretary-Treasurer or his designee, and~~

(C) ~~either a staff person or Board member agreed upon by the individuals listed in Parts (A) and (B) of this Subparagraph.~~

(3) ~~Once a charge is referred to the review committee, it~~ **Simultaneously,** ~~the Board~~ shall forward a written notice of and explanation of the charge to the person or corporation against whom the charge is made. The ~~review committee~~ **notice** shall request a response from the person or corporation so charged to show compliance with all lawful requirements for retention of the license. The ~~review committee~~ **Board** shall send **Notice notice** of the charge and of the alleged facts or alleged conduct by first class mail to the last known address of the person or corporation.

(4) ~~If the respondent denies the charge brought against him, then the review committee may direct that a field investigation be performed by an investigator retained by the Board.~~

(5) (2) ~~After all preliminary evidence has been received by the review committee, it shall make a threshold determination of the charges brought. From the evidence, it shall recommend to the Board that:~~ **After the investigation is complete, the charge shall be referred to the review committee. The review committee [is made up] shall consist of the following individuals:**

(A) ~~one member of the Board;~~

(B) ~~the Secretary-Treasurer or his designee, designee; and~~

(C) ~~either a staff person or Board member agreed upon by the individuals listed [in Parts (A) and (B) of this Subparagraph.] above.~~

(3) ~~The review committee shall [make a threshold determination of the charges brought. From the evidence, it shall] recommend to the Board that:~~

(A) ~~The charge be dismissed as unfounded or trivial;~~

(B) ~~When the charge is admitted as true by the respondent, the Board accept the respondent's admission of guilt and order the respondent not to commit in the future the act or acts~~

1 admitted by him to have been violated ~~and, also, and~~ not to violate any of the acts of
2 misconduct specified in G.S. 87-11 at any time in the future; or

3 (C) The charge, whether admitted or denied, be presented to the full Board for a hearing and
4 determination by the Board on the merits of the charge in accordance with the substantive
5 and procedural requirements of the provisions of Section .0800 of this Chapter and the
6 provisions of G.S. 87-11. Prior to the ~~matter [charge]~~ charge's being heard and
7 determined by the Board, it may be resolved by consent order.

8 ~~(6) (4)~~ The review committee shall not be required to notify the parties of the reasons ~~of the review~~
9 ~~committee in making its threshold determination. for its recommendation.~~

10 (c) Board Determination. After a hearing, in accordance with the hearing requirements of Section .0800 of this
11 Chapter, the Board shall make a determination of the charge ~~in light of~~ based upon the requirements of G.S. 87-11.

12
13 *History Note:* Authority G.S. 87-4; 87-11; 150B-3; 150B-38;

14 *Eff. February 1, 1976;*

15 *Readopted Eff. September 26, 1977;*

16 *Amended Eff. April 1, 2014; June 1, 2011; April 1, 2006; April 1, 2003; May 1, 1989.*

21 NCAC 12 .0703 is amended with changes as published in 28:06 NCR 542 as follows:

21 NCAC 12 .0703 FEE FOR SUBMITTAL OF BAD CHECK

(a) The Board shall charge any fee allowed by law if a check submitted to the Board is subsequently returned due to insufficient funds at or no account in a ~~bank~~ financial institution.

(b) Until such time as the ~~payor~~ drawer of the bad check has ~~made the check good and~~ paid the prescribed fee, ~~[Prescribed Fee]~~ the ~~payor~~ drawer will not be eligible to take an examination, review an examination, obtain a license ~~license~~, or have ~~his~~ the license renewed. For the purpose of this rule, ["Prescribed Fee"] "prescribed fee" shall mean the sum of:

(1) the fee described in Paragraph (a) of this Rule;

(2) the renewal or application fee, whichever is applicable, ~~applicable~~; and

(3) the late payment fee described in G.S. 87-10(e).

(c) Any license which has been issued or renewed based on ~~the payment of~~ a check which is subsequently returned to the Board for reasons stated in Paragraph (a) of this Rule ~~will be declared~~ is invalid until such time as the ~~payor~~ drawer has ~~made the check good and~~ paid the prescribed fee. ~~[Prescribed Fee]~~ The invalidity of the license or renewal shall be deemed to have commence commenced from on the date of the issuance of the license or renewal.

(d) Payment of the ~~[Prescribed Fee]~~ prescribed fee to the Board ~~for making good such bad check and for the prescribed fee~~ shall be made in the form of a cashier's check or money order.

(e) In the event the drawer of the bad check fails to pay the ~~[Prescribed Fee]~~ prescribed fee fee, during which time the license or renewal lapses for four years, no renewal shall be effected and the drawer shall fulfill all requirements of a new applicant set forth in G.S. 87-10.

~~(e) (f) All examination, license and license renewal applications provided by the Board shall contain information in a conspicuous place thereon clearly advising the applicant of any applicable bad check fee.~~

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.

21 NCAC 12 .0901 is amended **with changes** as published in 28:06 NCR 542 as follows:

21 NCAC 12 .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" **includes 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), does not include a mere breach of a contract.**
- (3) "Incompetent conduct" **is 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" **includes 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 **which 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 or former 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,~~ 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 ~~Volume VII of the North Carolina State Building Code,~~ the residential building code adopted by the Building Code Council pursuant to G.S. 143-138.

History Note: Authority G.S. **87-4;** 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.

21 NCAC 12 .0906 is amended **with changes** as published in 28:06 NCR 542-543 as follows:

21 NCAC 12 .0906 PROCESSING OF CLAIM APPLICATION

(a) Staff shall refer a **properly** filed application **for a claim** 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, Board;**
- (2) the legal counsel of the **Board, Board;** and
- (3) the Secretary-Treasurer.

~~(b) The Committee shall determine, prior to a hearing, whether or not an application is meritless. The decision of the Committee is final.~~ 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) If the general contractor denies the charges contained in the application, then, an investigator, retained by the Board, may perform a field investigation.~~

~~(d)~~ **(c)** The Committee **may 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.

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

- (1) **The the** application be dismissed as meritless; or
- (2) **The 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.

~~(f)~~ **(e)** The Committee shall give notice of the **threshold determination 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 **threshold determination, 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, 2014; April 1, 2007.*