

1 21 NCAC 12 .0101 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **CHAPTER 12 - LICENSING BOARD FOR GENERAL CONTRACTORS**

4
5 **SECTION .0100 - ORGANIZATION AND RESPONSIBILITIES OF BOARD**

6
7 **21 NCAC 12 .0101 IDENTIFICATION**

8 The ~~North Carolina State~~ Licensing Board for General Contractors, hereinafter referred to as the "North Carolina
9 Licensing Board for General Contractors" or "the Board," is located in Raleigh, North Carolina; its mailing address is
10 ~~Post Office Box 17187, 5400 Creedmoor Road, Raleigh, North Carolina 27619.~~ 27612. The Board website is
11 www.nclbgc.org.

12
13 *History Note: Authority G.S. 87-2;*
14 *Eff. February 1, 1976;*
15 *Amended Eff. June 23, 1977;*
16 *Readopted Eff. September 26, 1977;*
17 *Amended Eff. December 1, 1985; January 1, 1983;*
18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
19 *~~2016.~~ 2016.*
20 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0103

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

Are (a) and (b) necessary? They appear to address internal management and other issues that would be more appropriate for by-laws.

In (c)(1), since you have introductions to the rest of your Sub-Paragraphs (i.e. "Special Meetings." and "Notice of Meetings." please consider adding "Regular Meetings." for purposes of consistency.

In (c)(1), how is your public made aware of "any other place so designated by the Board"? Is this available on your website?

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: January 30, 2018

1 21 NCAC 12 .0103 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0103 STRUCTURE OF BOARD**

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

7 (b) Secretary-Treasurer. In addition to those duties and responsibilities required of him or her by ~~the~~ G.S. 87-8, the
8 Secretary-Treasurer, referred to as "Secretary-Treasurer" or "Executive Director," as the Board's Chief Administrative
9 Officer, has the responsibility and power to:

- 10 (1) employ the clerical and legal services necessary to assist the Board in carrying out the requirements
11 of the North Carolina General Statutes;
- 12 (2) purchase or rent whatever office equipment, stationery, or other miscellaneous articles as are
13 necessary to keep the records of the Board;
- 14 (3) make expenditures from the funds of the Board by signing checks, or authorizing the designee of
15 the Secretary-Treasurer to sign checks, for expenditures after the checks are signed by the Chairman
16 or Vice-Chairman; and
- 17 (4) do such other acts as may be required of him or her by the Board.

18 (c) Official Meetings of the Board.

- 19 (1) Regular meetings shall be held during January, April, July and October of each year at the Board's
20 office or at any other place so designated by the Board.
- 21 (2) Special Meetings. Special meetings shall be ~~held as set out in the bylaws of the Board.~~ called and
22 conducted in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes.
- 23 (3) Notice of Meetings. ~~Regular meetings of the Board shall be held after each Board member is duly~~
24 ~~notified by the Secretary Treasurer of the date of the meeting. However, any person or persons~~
25 ~~requesting a special meeting of the Board shall, at least two days before the meeting, give notice to~~
26 ~~the other members of the Board of that meeting by electronic mail or notification on the Board's~~
27 ~~website. Such notice must specify the purpose for which the meeting is called. Notice of all official~~
28 meetings of the Board shall be given pursuant to Article 33C of Chapter 143 of the North Carolina
29 General Statutes.

30
31 *History Note: Authority G.S. 87-2; 87-4; 87-6; 87-7;*
32 *Eff. February 1, 1976;*
33 *Readopted Eff. September 26, 1977;*
34 *Amended Eff. April 1, 2014; August 1, 2002; January 1, 1992; May 1, 1989; January 1, 1983;*
35 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
36 *2016- 2016;*
37 *Amended Eff. April 1, 2018.*

1 21 NCAC 12 .0202 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0202 CLASSIFICATION**

4 (a) A general contractor ~~must~~ shall be certified in one of the following five classifications: ~~classifications:~~ These
5 ~~classifications are as follows:~~

6 (1) Building Contractor. This classification covers all building construction activity including:
7 commercial, industrial, institutional, and all residential building construction. It includes parking
8 decks; all site work, grading and paving of parking lots, driveways, sidewalks, and gutters; storm
9 drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor
10 recreational facilities including natural and artificial surface athletic fields, running tracks,
11 bleachers, and seating. It also covers work done under the specialty classifications of S(Concrete
12 Construction), S(Insulation), S(Interior Construction), S(Marine Construction), S(Masonry
13 Construction), S(Roofing), S(Metal Erection), S(Swimming Pools), and ~~S(Asbestos).~~ S(Asbestos),
14 and S(Wind Turbine).

15 (2) Residential Contractor. This classification covers all construction activity pertaining to the
16 construction of residential units ~~which~~ that are required to conform to the residential building code
17 adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways,
18 sidewalks, and water and wastewater systems ancillary to the aforementioned structures and
19 improvements; and the work done as part of such residential units under the specialty classifications
20 of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming
21 Pools), and S(Asbestos).

22 (3) Highway Contractor. This classification covers all highway construction activity including:
23 grading, paving of all types, installation of exterior artificial athletic surfaces, relocation of public
24 and private utility lines ancillary to ~~the~~ a principal project, bridge construction and repair, culvert
25 construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also includes
26 installation and erection of guard rails, fencing, signage and ancillary highway hardware; covers
27 paving and grading of airport and airfield runways, taxiways, and aprons, including the installation
28 of fencing, signage, runway lighting and marking; and work done under the specialty classifications
29 of S(Boring and Tunneling), S(Concrete Construction), S(Marine Construction), S(Railroad
30 Construction), and H(Grading and Excavating).

31 (4) Public Utilities Contractor. This classification includes operations that are the performance of
32 construction work on water and wastewater systems and on the subclassifications of facilities set
33 forth in G.S. 87-10(b)(3). The Board ~~may~~ shall issue a license to a public utilities contractor that is
34 limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the contractor
35 qualifies. A public utilities contractor license covers work done under the specialty classifications
36 of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution), PU(Electrical-Ahead of

1 Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water Purification and Sewage
2 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~~ moving, and
6 placing of materials forming the surface of the earth, excluding air and water, in such a
7 manner that the cut, fill, excavation, grade, trench, backfill, or any similar operation ~~can~~
8 may be executed with the use of hand and power tools and machines ~~commonly~~ used for
9 these types of digging, moving, and material placing. It covers work on earthen dams and
10 the use of explosives used in connection with all or any part of the activities described in
11 this Subparagraph. It also includes clearing and grubbing, and erosion control activities.

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

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

- 18 (i) all types of pole lines, and aerial and underground distribution cable for telephone
19 systems;
- 20 (ii) aerial and underground distribution cable for cable TV and master antenna TV
21 systems capable of transmitting R.F. signals;
- 22 (iii) underground conduit and communication cable including fiber optic cable; and
23 (iv) microwave systems and towers, including foundations and excavations where
24 required, when the microwave systems are being used for the purpose of
25 transmitting R.F. signals; and installation of PCS or cellular telephone towers and
26 sites.

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

31 (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction,
32 installation, alteration, maintenance, or repair of an electrical wiring system, including sub-
33 stations or components thereof, which is or is intended to be owned, ~~operated~~ operated, and
34 maintained by an electric power supplier, such as a public or private utility, a utility
35 cooperative, or any other properly franchised electric power supplier, for the purpose of
36 furnishing electrical services to one or more customers.

- 1 (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration,
2 maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates,
3 natural gas, chemicals, and slurries through pipeline from one station to another. It includes
4 all excavating, trenching, and backfilling in connection therewith. It covers the installation,
5 ~~replacement~~ replacement, and removal of above ground and below ground fuel storage
6 tanks.
- 7 (G) PU(Water Lines and Sewer Lines). This classification covers construction work on water
8 and sewer mains, water service lines, and house and building sewer lines, as defined in the
9 North Carolina State Building Code, and covers water storage tanks, lift stations, pumping
10 stations, and appurtenances to water storage tanks, lift stations and pumping stations. It
11 includes pavement patching, backfill, and erosion control as part of ~~such~~ construction.
- 12 (H) PU(Water Purification and Sewage Disposal). This classification covers the performance
13 of construction work on water and wastewater systems; water and wastewater treatment
14 facilities; and all site work, grading, and paving of parking lots, driveways, sidewalks, and
15 curbs and gutters ~~which~~ that are ancillary to such construction of water and wastewater
16 treatment facilities. It covers the work done under the specialty classifications of
17 S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry
18 Construction), S(Roofing), and S(Metal Erection) as part of ~~such~~ the work on water and
19 wastewater treatment facilities.
- 20 (I) S(Insulation). This classification covers the installation, alteration, or repair of materials
21 classified as insulating media used for the non-mechanical control of temperatures in the
22 construction of residential and commercial buildings. It does not include the insulation of
23 mechanical equipment, and ancillary lines and piping.
- 24 (J) S(Interior Construction). This classification covers the installation of acoustical ceiling
25 systems and panels, ~~drywall~~ partitions (load bearing and non-load bearing), lathing and
26 plastering, flooring and finishing, interior recreational surfaces, window and door
27 installation, and installation of fixtures, ~~cabinets~~ cabinets, and millwork. It includes the
28 removal of asbestos and replacement with non-toxic substances.
- 29 (K) S(Marine Construction). This classification covers all marine construction and repair
30 activities and all types of marine construction in deep-water installations and in harbors,
31 inlets, sounds, bays, and channels; it covers dredging, ~~construction~~ construction, and
32 installation of pilings, piers, decks, slips, docks, and bulkheads. It does not include
33 structures required on docks, ~~slips~~ slips, and piers.
- 34 (L) S(Masonry Construction). This classification covers the installation, with or without the
35 use of mortar or adhesives, of the following:
- 36 (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight
37 and facsimile units and products common to the masonry industry;

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

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

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

10 (b) An applicant may be licensed in more than one classification of general contracting provided the applicant meets
11 the qualifications for the classifications, ~~that include~~ which includes passing the examinations for the classifications
12 in question. The license granted to an applicant who meets the qualifications for all of the classifications set forth in
13 ~~this Rule will carry with it a designation of~~ the Rules of this Section shall be designated "unclassified."
14

15 *History Note: Authority G.S. 87-1; 87-4; 87-10;*
16 *Eff. February 1, 1976;*
17 *Readopted Eff. September 26, 1977;*
18 *Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983;*
19 *Temporary Amendment Eff. February 18, 1997;*
20 *Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003; August*
21 *1, 2002; April 1, 2001; August 1, 2000; August 1, 1998;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
23 *~~2016.~~ 2016.*
24 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0204

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

What is a limitation? I assume that it is referring to the categories contained within this Rule (limited, intermediate, and unlimited)? Under what circumstances would each category be appropriate? Some additional information as to what the significance of each category would be helpful.

In (a)(1), (b)(1), and (c)(1), what does "entitled to be admitted to the examination" mean? Does this simply mean that they have to meet the requirements set out in 87-10? Also, it is my understanding that Section .0400 addresses the examination requirements. Is this duplicative of (a)(3), (b)(3), and (c)(3)? Would it be sufficient and accurate to say something like: "meet the requirements as set forth in G.S. 87-10;"?

I want to be sure that I'm clear – for a Limited License, an applicant only must submit a audited financial statement if someone associated with it has filed bankruptcy within the past 5 years? If that is true, please consider moving the "if the applicant... is in bankruptcy or has been..." to the beginning of sub-paragraph (a)(4). As written, it gets a bit lost. Also, if my understanding is correct, how is an applicant for a limited license to satisfy (a)(2)? Must they simply check a box on the application or is proof required?

In (d), page 2, line 19, are there some federal regulations that GCs are subject to or do you mean State rules?

In (e), page 2, line 31, what is meant by "wherein the only exception to GAAP is that..."? Is this sentence saying that the Board may require additional non-GAAP financial statements if it is necessary to determine the working capital or net worth of a particular applicant? If so, please say that and consider simplifying this sentence.

In (e), there are references to several outside standards. Please confirm that all have been incorporated in accordance with [G.S. 150B-21.6](#).

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: January 30, 2018

1 21 NCAC 12 .0204 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0204** **LICENSE LIMITATIONS; ELIGIBILITY**

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

- 5 (1) ~~Be~~ be entitled to be admitted to the examination given by the Board and ~~must~~ shall meet the
6 requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- 7 (2) ~~Be~~ be financially stable to the extent that the total current assets of the applicant or the firm or
8 corporation he or she represents exceed the total current liabilities by at least seventeen thousand
9 dollars (\$17,000) or the total net worth of the applicant or firm is at least eighty thousand dollars
10 (\$80,000);
- 11 (3) ~~Pass~~ pass the examination ~~given by the Board for which shall contain subject matter related to the~~
12 ~~specific contracting classification chosen by the applicant with a score of 70 percent or higher; as~~
13 ~~set out in Rule .0404 of this Chapter; and~~
- 14 (4) ~~Provide~~ provide to the Board an audited financial statement with a classified balance sheet as part
15 of the application, if the applicant or any owner, principal, or qualifier is in bankruptcy or has been
16 in bankruptcy within ~~seven~~ five years prior to the filing of the application. This requirement ~~does~~
17 shall not apply to shareholders of an applicant that is a publicly traded corporation. The audited
18 financial statement shall be prepared by a certified public accountant.

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

- 20 (1) ~~Be~~ be entitled to be admitted to the examination given by the Board and ~~must~~ shall meet the
21 requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- 22 (2) ~~Be~~ be financially stable to the extent that the total current assets of the applicant or the firm or
23 corporation he or she represents exceed the total current liabilities by at least seventy-five thousand
24 dollars (\$75,000), as reflected in an audited financial statement prepared by a certified public
25 ~~accountant or an independent accountant who is engaged in the public practice of accountancy;~~
26 ~~accountant; and~~
- 27 (3) ~~Pass~~ pass the examination ~~given by the Board for which shall contain subject matter related to the~~
28 ~~specific contracting classification chosen by the applicant with a score of 70 percent or higher; as~~
29 ~~set out in Rule .0404 of this Chapter.~~

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

- 31 (1) ~~Be~~ be entitled to be admitted to the examination given by the Board and ~~must~~ shall meet the
32 requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- 33 (2) ~~Be~~ be financially stable to the extent that the total current assets of the applicant or the firm or
34 corporation he or she represents exceed the total current liabilities by at least one hundred fifty
35 thousand dollars (\$150,000), as reflected in an audited financial statement prepared by a certified
36 public ~~accountant or an independent accountant who is engaged in the public practice of~~
37 ~~accountancy; accountant;~~

1 (3) ~~Pass pass~~ the examination ~~given by the Board for~~ which shall contain subject matter related to the
2 specific contracting classification chosen by the applicant with a score of 70 percent or higher. as
3 set out in Rule .0404 of this Chapter.

4 (d) Surety Bonds. In lieu of demonstrating the ~~required~~ level of working capital as required by in Subparagraphs
5 (b)(2) and (c)(2) of this Rule or net worth under Subparagraph (a)(2) of this Rule, an applicant may obtain a surety
6 bond from a surety authorized to transact surety business in North Carolina pursuant to G.S. 58 Articles 7, 16, 21, or
7 22. The surety shall maintain a rating from A.M. Best, or its successor rating organization, of either Superior (A++
8 or A+) or Excellent (A or A-). The bond shall be continuous in form and shall be maintained in effect for as long as
9 the applicant maintains a license to practice general contracting in North Carolina or until the applicant demonstrates
10 the required level of working ~~capital~~ capital as required by Subparagraphs (b)(2) and (c)(2) of this Rule. The
11 application form and subsequent annual license renewal forms shall require proof of a surety bond meeting the
12 requirements of this Rule. The applicant shall maintain the bond in the amount of three hundred fifty thousand dollars
13 (\$350,000) for a limited license, one million dollars (\$1,000,000) for an intermediate license, and two million dollars
14 (\$2,000,000) for an unlimited license. The bond shall list the State of North Carolina as obligee and be for the benefit
15 of any person who is damaged by an act or omission of the applicant constituting breach of a construction ~~contract or~~
16 contract, breach of a contract for the furnishing of labor, materials, or professional services to construction undertaken
17 by the applicant, or by an unlawful act or omission of the applicant in the performance of a construction contract. The
18 bond required by this Rule shall be in addition to and not in lieu of any other bond required of the applicant by law,
19 regulation, or any party to a contract with the applicant. Should the surety cancel the bond, the surety and the applicant
20 both shall notify the Board within 30 days in writing. If the applicant fails to provide written proof of financial
21 responsibility in compliance with this Rule within 30 days of the bond's cancellation, then the applicant's license is
22 shall be suspended until written proof of compliance is provided.

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

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

28 ~~(g) (e) Accounting~~ Financial statements, accounting, and reporting standards. Financial statements submitted by
29 applicants to the Board shall be no older than twelve months from the date of submission. Financial statements shall
30 conform to United States "generally accepted accounting principles" (GAAP). The Board may require non-GAAP
31 financial statements from applicants wherein the only exception to GAAP is that such presentation is necessary to
32 ascertain the working capital or net worth of the particular applicant. Examples of ~~such~~ the circumstances when non-
33 GAAP presentation is may be necessary to ascertain the working capital or net worth of the applicant ~~are~~ shall be
34 when the only exception to GAAP is that assets and liabilities are classified as "current" and "noncurrent" on personal
35 financial statements and when the only exception to GAAP is that the particular applicant is not combined with a
36 related entity into one financial statement pursuant to AICPA Financial Interpretation 46R (ASC 810). The
37 terminologies, working capital, balance sheet with current and fixed assets, current and long term liabilities, and any

1 other accounting terminologies, used herein shall be construed in accordance with GAAP Standards as promulgated
2 by the Financial Accounting Standards Board (FASB). The terminologies, audited financial statement, unqualified
3 opinion, and any other auditing terminologies used herein shall be construed in accordance with those standards
4 referred to as "generally accepted auditing standards" (GAAS) as promulgated by the American Institute of Certified
5 Public Accountants (AICPA).

6
7 *History Note: Authority G.S. 87-1; 87-4; 87-10; 87-15.1;*
8 *Eff. February 1, 1976;*
9 *Readopted Eff. September 26, 1977;*
10 *Amended Eff. January 1, 1983;*
11 *ARRC Objection March 19, 1987;*
12 *Amended Eff. May 1, 1989; August 1, 1987;*
13 *Temporary Amendment Eff. June 28, 1989 for a Period of 155 Days to Expire on December 1, 1989;*
14 *Amended Eff. December 1, 1989;*
15 *Temporary Amendment Eff. May 31, 1996;*
16 *RRC Removed Objection Eff. October 17, 1996;*
17 *Amended Eff. August 1, 1998; April 1, 1997;*
18 *Temporary Amendment Eff. August 24, 1998;*
19 *Amended Eff. April 1, 2014; April 1, 2013; August 1, 2008; April 1, 2006; March 1, 2005; August*
20 *1, 2002; April 1, 2001; August 1, 2000;*
21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
22 *~~2016~~ 2016;*
23 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0205

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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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 the following technical changes be made:

Given 87-10(a), is (a) necessary? If it is, who may act as a qualifier appears to differ slightly from 87-10. 87-10(c) seems to say that an individual may act as the qualifier if the individual is making application or a "responsible managing officer" or "member of the personnel" may act as a qualifier for a "copartnership, corporation, or any other combination or organization." Please be consistent with the statute.

In (a), what is your authority to invalidate examination credentials after four years? I see that this is allowed in 87-10 for an inactive license, but I do not see this for exam credentials. Is it elsewhere?

In (a), lines 13-16, what specific provisions of 150B and Section .0800 allow for the rejection of an application? Those are regarding the administrative hearing process. Please verify.

In (b), please end "licensee" with a period rather than a semi-colon, and begin a new sentence with "The notice shall include...." Also, are there any requirements of the notice other than the date?

In (b), how would the Board determine that a qualifier is no longer with a licensee?

In (b), lines 21-24, is this language necessary given 87-10(c1)? It appears to essentially recite the statute.

It is my understanding that a qualifier acts as the one who take the exam for the applicant. The way that I read this, (c) is pretty much saying that under the circumstances contained in 87-10(c), a specific person can act as the qualifier. So, (c) seems to just be saying that these folks can serve as a qualifier, leading me to the question of whether (c) is necessary given Paragraph (a) and 87-10.

If (c) is necessary, what is meant by "certain conditions"? I don't see any conditions related to (c) in 87-10.

Amber May
Commission Counsel
Date submitted to agency: January 30, 2018

In (d), do you mean “responsible managing officers”?

In (f), rather than “one person associated with the applicant”, do you mean the “qualifier”? If so, please say “qualifier” for clarity purposes.

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: January 30, 2018

1 21 NCAC 12 .0205 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0205 FILING DEADLINE/APP SEEKING QUAL/EMP/ANOTHER QUALIFIER**

4 ~~(a) Any application made pursuant to G.S. 87-10 for a new applicant seeking qualification by employment of a person~~
5 ~~who has already passed an examination shall be completed and filed at least 30 days before any regular or special~~
6 ~~meeting of the Board. At such meeting, the Board shall consider the application.~~

7 ~~(b) (a) The qualifier for the applicant shall be a responsible managing employee, officer~~ officer, or member of the
8 ~~personnel of the applicant, as described in G.S. 87-10 and Rule .0408(a) of this Chapter. 87-10. A person may serve~~
9 ~~as a qualifier for no more than two licenses. A person may not serve as a qualifier under this Rule if such person has~~
10 ~~not served as a qualifier for a license of the appropriate classification for more than four years prior to the filing of the~~
11 ~~application currently under review. A qualifier's examination credentials shall archive if the qualifier does not serve~~
12 ~~as a qualifier for an active licensee for a period of four consecutive years. Any subsequent attempts to qualify for a~~
13 ~~license shall require the qualifier to earn a passing grade. Subject to the provisions of G.S. 150B and Section .0800~~
14 ~~of these Rules, the Board may reject the application of an applicant seeking qualification by employment of a person~~
15 ~~who has already passed an examination if such person has previously served as qualifier for a licensee that has been~~
16 ~~disciplined by the Board.~~

17 ~~(c) (b) The holder of a general contractors license~~ A licensee shall notify the Board ~~immediately~~ in writing ~~as to the~~
18 ~~termination date~~ in the event ~~the qualifying individual or individuals cease~~ a qualifier ceases to be connected with the
19 ~~licensee. licensee; the notice shall include the date on which the qualifier was last connected with the licensee. A~~
20 ~~qualifier shall also be required to notify the Board in writing in such circumstances. After such notice is filed with~~
21 ~~the Board, Board in writing, or the Board determines that the qualifying individual or individuals are~~ qualifier is no
22 ~~longer connected with the licensee, licensee if there are no additional qualifiers for the licensee, the license shall~~
23 ~~remain in full force and effect for a period of 90 days from the termination date, and then is cancelled, becomes invalid~~
24 ~~unless a qualifier has transferred a valid qualifying credential, as provided by G.S. 87-10(e). 87-10. Holders of a~~
25 ~~general contractors license are entitled to reexamination or replacement of the qualifying individual's credentials in~~
26 ~~accordance with G.S. 87-10, but may not engage in the practice of general contracting for any project whose cost~~
27 ~~exceeds the monetary threshold set forth in G.S. 87-1 after the license has been cancelled, until another qualifying~~
28 ~~individual has passed an examination.~~

29 ~~(c) Persons associated with a firm or corporation may take the required examination on behalf of the firm or~~
30 ~~corporation under certain conditions. The conditions are described in G.S. 87-10. A partner may take an examination~~
31 ~~on behalf of a partnership.~~

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

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

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

4
5 *History Note: Authority G.S. 87-1; 87-4; 87-10; 87-11(a);*
6 *Eff. February 1, 1976;*
7 *Readopted Eff. September 26, 1977;*
8 *Amended Eff. April 1, 2014; July 1, 2008; April 1, 2006; August 1, 2000; June 1, 1994; June 1,*
9 *1992; May 1, 1989; July 1, 1987;*
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
11 *~~2016-2016;~~*
12 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0207

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

Given 87-10, why is this Rule necessary? It seems to either require the same thing or potentially contradict the statute.

If this Rule is necessary, what is a "joint venture"? This is not a term used elsewhere in your rules nor is it used in your statutes. I assume that this means partnerships, corporations, etc., but that is not clear.

On line 4, what is a "member"? Is this supposed to be member of the personnel as defined in .0205?

I'm reading this Rule to require each member to be licensed; however, I'm reading 87-10(c) to require that only one member of the "copartnership or corporation, or any other combination or organization" take the examination. How does this work? Does this only come into play in requiring that only one member has the "appropriate limitation"? This could use some clarifying language as it is unclear to me what is required (outside of 87-10.)

Please add G.S. 87-4 to your History Note.

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: January 30, 2018

1 21 NCAC 12 .0207 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0207 JOINT VENTURE**

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

9

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

11 *Eff. June 1, 1992;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

13 *~~2016.~~ 2016;*

14 *Amended Eff. April 1, 2018.*

1 21 NCAC 12 .0208 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0208 CONSTRUCTION MANAGEMENT**

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

10 (b) The ~~term phrase~~ "undertakes to superintend or manage" described in Paragraph (a) of this Rule ~~does~~ shall not
11 include the following:

- 12 (1) an architect or engineer licensed in North Carolina who is supervising the execution of design plans
13 for the project owner and who does not contract directly with subcontractors to perform the
14 construction for the project; or
15 (2) subject to the conditions stated within this Subparagraph and Paragraph (c), any person, firm, or
16 corporation retained by an owner of real property as a consultant, agent, or advisor to perform
17 development-related functions, including:
18 (A) assisting with site planning and ~~design,~~ design;
19 (B) formulating a development ~~scheme,~~ scheme;
20 (C) obtaining zoning and other ~~entitlements,~~ entitlements;
21 (D) tenant selection and ~~negotiation,~~ negotiation;
22 (E) interfacing and negotiating with the general contractor, engineer, architect, other
23 construction and design ~~professionals~~ professionals, and other development consultants
24 with whom the land owner separately contracts, including, negotiating contracts on the
25 owner's behalf, assisting with scheduling issues, ensuring that any disputes between such
26 parties are resolved to the owner's satisfaction, and otherwise ensuring that such parties are
27 proceeding in an efficient, coordinated manner to complete the ~~project,~~ project;
28 (F) providing cost ~~estimates~~ estimates, bids, and budgeting, budgeting;
29 (G) monitoring the progress of development activities performed by other ~~parties,~~ parties;
30 (H) arranging and negotiating governmental incentives and ~~entitlements,~~ entitlements; and
31 (I) selecting and sequencing sites for development.

32 (c) The exclusions set forth in Subparagraph (b)(2) ~~do~~ shall not apply, however, unless the following conditions are
33 satisfied:

- 34 (1) the owner has retained a licensed general contractor or licensed general contractors to construct the
35 entire project or to directly superintend and manage all construction work in which the person, ~~firm~~
36 firm, or corporation has any involvement and ~~which~~ that would otherwise require the use of a
37 licensed general ~~contractor,~~ contractor; and

1 (2) the use of the person, ~~firm~~ firm, or corporation will not impair the general contractor's ability to
2 communicate directly with the owner and to verify the owner's informed consent and ratification of
3 the directions and decisions made by the person, ~~firm~~ firm, or corporation to the extent that such
4 directions or decisions affect the construction activities otherwise requiring the use of a licensed
5 general contractor. For the purposes of this Subparagraph, the general contractor ~~is~~ shall be entitled
6 to make a written demand for written verification from the owner of any directions given or
7 decisions made by such a person, ~~firm~~ firm, or corporation on the owner's behalf. In that regard, if
8 the general contractor delivers a written request directly to the owner asking that the owner confirm
9 in writing that the owner desires that the general contractor perform consistent with a direction or
10 decision made by such person, ~~firm~~ firm, or corporation:

11 (A) the general contractor shall not be obligated to follow such direction or decision in question
12 until such time as the owner provides written verification of the direction or decision; and

13 (B) if the third party person, ~~firm~~ firm, or corporation whose direction or decision is being
14 questioned by the general contractor attempts to itself provide the confirmation requested
15 from the owner by the general contractor as provided above, such person, ~~firm~~ firm, or
16 corporation shall be deemed to be "undertaking to superintend or manage" as described in
17 Paragraph (a) of this Rule.

18
19 *History Note: Authority G.S. 87-1; 87-4;*
20 *Eff. May 1, 1995;*
21 *Amended Eff. June 1, 2010;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
23 *~~2016.~~ 2016.*
24 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0211

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

In (a) and (b), please capitalize "if" at the beginning of the Paragraphs.

Please confirm that the Building Code and Residential Code have been incorporated by reference in accordance with G.S. 150B-21.6 elsewhere in your Rules.

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: January 30, 2018

1 21 NCAC 12 .0211 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0211 MULTIUNIT BUILDINGS**

4 ~~For the purposes of determining whether or not the cost of the undertaking is thirty thousand dollars (\$30,000) or more~~
5 ~~under G.S. 87-1, and whether or not the value of any single project falls within the license limitations established by~~
6 ~~G.S. 87-10(a), (a) if a project consists of the construction or alteration of one or more buildings comprised of three or~~
7 ~~more units within each building, including apartments, condominiums, and townhomes, then all such units in a~~
8 ~~building shall be considered in determining the cost of the undertaking under G.S. 87-1 and the value of the project~~
9 ~~under G.S. 87-10(a). that fall under the requirements of the North Carolina Building Code, all structures and units on~~
10 ~~the same parcel of land shall be considered as a single project.~~

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

14

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

16 *Eff. August 11, 2009;*

17 *Amended Eff. April 1, 2010;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
19 *2016-2016;*

20 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0301

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0301 is repealed as published in 32:10 NCR 968-981 as follows:
2

3 **SECTION .0300 - APPLICATION PROCEDURE**
4

5 **21 NCAC 12 .0301 GENERAL**

6 ~~An applicant for a general contractor's license must apply to the Board on the form prescribed and furnished by the~~
7 ~~Board.~~
8

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

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 26, 1977;*

12 *Amended Eff. May 1, 1989;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

14 ~~*2016. 2016;*~~

15 ~~*Repealed Eff. April 1, 2018.*~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0302

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0302 is repealed as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0302 REQUEST**

4 ~~(a) A request for the required application form may be made at the address in Rule .0101 of this Chapter.~~

5 ~~(b) The Board shall charge a fee to cover the cost of publishing and mailing the application package.~~

6

7 *History Note: Authority G.S. 87-1; 87-10; 150B-19(5);*

8 *Eff. February 1, 1976;*

9 *Amended Eff. June 23, 1977;*

10 *Readopted Eff. September 26, 1977;*

11 *Amended Eff. May 1, 2006; December 1, 1995; June 1, 1992;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

13 ~~*2016. 2016;*~~

14 ~~*Repealed Eff. April 1, 2018.*~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0303

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

It appears as though all of the requirements in (b) are already contained in (a). Is (b) necessary?

Please add G.S. 87-4 to the History Note.

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: January 30, 2018

1 21 NCAC 12 .0303 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0303 FORM APPLICATION FOR LICENSURE**

4 (a) General. ~~There is one application form prescribed by the Board for all applicants desiring to become licensed to~~
5 ~~engage in the business of general contracting in North Carolina regardless of limitation or classification of license~~
6 ~~desired and regardless of whether the applicant desires to be licensed by reciprocity or by examination. Applications~~
7 ~~for licensure shall contain the following:~~

8 (1) the Social Security Number of examinee(s) and qualifier(s) and tax identification numbers for
9 corporate applicants;

10 (2) the applicant's contact information;

11 (3) the name of business under which licensee will be operating, if any;

12 (4) requested designation of license limitation and classifications;

13 (5) information about all crimes of which the applicant has been convicted;

14 (6) certified copies of court records reflecting information regarding all crimes of which the applicant
15 and qualifier(s) have been convicted;

16 (7) information indicating whether the applicant or qualifier(s) has any disciplinary history with the
17 Board or any other occupational licensing, registration, or certification agency;

18 (8) information establishing financial responsibility as required by G.S. 87-10(a) and Rule .0204 of this
19 Chapter;

20 (9) letters of reference as prescribed in Rule .0308 of this Chapter; and

21 (10) the application fee as set forth in Rule .0304 of this Chapter.

22 (b) Contents. The application form requires the applicant to state which limitation and classification or classifications
23 of license he or she is applying for and also to set forth the experience of the applicant or of his or her principal
24 employees, as appropriate. In addition, the application form requires the applicant to give information concerning his
25 or her personal history, including personal references.

26 (c) Reciprocity. Applicants ~~for a license to engage in the practice of general contracting in North Carolina~~ based on
27 reciprocity ~~must~~ shall submit with the application form a copy of the ~~applicant'~~ applicant's license in the other state,
28 certified by the other state licensing board as being a ~~true~~ copy of a valid license.

29
30 *History Note: Authority G.S. 87-1; 87-10;*

31 *Eff. February 1, 1976;*

32 *Readopted Eff. September 26, 1977;*

33 *Amended Eff. May 1, 1989;*

34 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
35 *2016- 2016;*

36 *Amended Eff. April 1, 2018.*

1 21 NCAC 12 .0304 is adopted as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0304 FEES**

4 (a) The Board shall charge the following fees:

5 (1) Application for limited license: \$75.00;

6 (2) Application for intermediate license: \$100.00;

7 (3) Application for unlimited license: \$125.00;

8 (4) Application for increase in limitation: \$100.00 for increase to intermediate license and \$125.00 for
9 increase to unlimited license;

10 (5) Late renewal: \$10.00 per month for every month or part after the first day of January.

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

12

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

14 *Eff. February 1, 1976;*

15 *Readopted Eff. September 26, 1977;*

16 *Amended Eff. January 1, 1983;*

17 *Repealed Eff. May 1, ~~1989~~. 1989;*

18 *Codifier approved agency's waiver request to reuse rule number;*

19 *Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0305

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0305 is repealed as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0305 FILING ADDRESS**

4 ~~The completed application form and fee payment are to be filed at the address shown in Rule .0101 of this Chapter.~~

5

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

7 *Eff. February 1, 1976;*

8 *Amended Eff. June 23, 1977;*

9 *Readopted Eff. September 26, 1977;*

10 *Amended Eff. May 1, 1989;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

12 *~~2016- 2016;~~*

13 *Repealed Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0402

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0402 is repealed as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0402 SUBJECT MATTER**

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

5 ~~(1) the applicant's general knowledge of the practice of contracting in areas such as plan and~~
6 ~~specification reading, cost estimation, safety requirements, construction theory and other similar~~
7 ~~matters of general contracting knowledge;~~

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

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

12 ~~(b) The content of the examination will depend on the classification or classifications of general contracting for which~~
13 ~~the applicant seeks licensure, as indicated by his application. Also, within the specialty contractor classification,~~
14 ~~examinations given by the Board are designed to test the applicant's knowledge of the particular trade, category or~~
15 ~~categories of specialty contracting indicated in his application.~~

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

18 *Eff. February 1, 1976;*

19 *Readopted Eff. September 26, 1977;*

20 *Amended Eff. August 1, 2000; June 1, 1994; May 1, 1989;*

21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
22 *2016-2016;*

23 *Repealed Eff. April 1, 2018.*

1 21 NCAC 12 .0404 is adopted as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0404 PASSING GRADE**

4 Persons taking the examination shall receive a score of at least 70 in order to pass the examination.

5

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

7 *Eff. February 1, 1976;*

8 *Readopted Eff. September 26, 1977;*

9 *Amended Eff. January 1, 1983;*

10 *Repealed Eff. May 1, ~~1989~~ 1989;*

11 *Codifier approved agency's waiver request to reuse rule number;*

12 *Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0408

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0408 is repealed as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0408 PERSON TAKING EXAMINATION**

4 ~~(a) Persons other than the applicant, if the applicant is an individual, may take the required examination under certain~~
5 ~~conditions. Persons associated with a firm or corporation may take the required examination on behalf of the firm or~~
6 ~~corporation under certain conditions. The conditions are described in G.S. 87-10. The term "responsible managing"~~
7 ~~as used in G.S. 87-10 to describe persons who may take an examination on behalf of an applicant means that the~~
8 ~~person shall be actively engaged in the work of the applicant a minimum of 20 hours per week or a majority of the~~
9 ~~hours operated by the applicant, whichever is less. The term "members of the personnel" as used in G.S. 87-10 to~~
10 ~~describe persons who may take an examination on behalf of an applicant means that the person shall be a responsible~~
11 ~~managing employee of the applicant and shall not be an independent contractor. A partner may take an examination~~
12 ~~on behalf of a partnership.~~

13 ~~(b) More than one person associated with an applicant may take the required examination. If one person associated~~
14 ~~with the applicant fails, and another passes, the license shall be granted to that applicant.~~

15

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

17 *Eff. February 1, 1976;*

18 *Readopted Eff. September 26, 1977;*

19 *Amended Eff. April 1, 2006; September 1, 1992; May 1, 1989;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
21 *~~2016.~~ 2016;*

22 *Repealed Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0410

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0410 is repealed as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0410 FAILING EXAMINATION**

4 ~~Persons taking the examination must receive a score of at least 70 in order to pass the examination.~~

5

6 *History Note: Authority G.S. 87-10;*

7 *Eff. December 1, 1995;*

8 *Amended Eff. August 1, 2000;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

10 ~~*2016- 2016;*~~

11 ~~*Repealed Eff. April 1, 2018.*~~

1 21 NCAC 12 .0501 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **SECTION .0500 - LICENSE**
4

5 **21 NCAC 12 .0501 LICENSE GRANTED**

6 ~~(a) Grant. Upon complying with the requirements of Article 1, Chapter 87 of the General Statutes of North Carolina~~
7 ~~and with the requirements of Section .0200 of this Chapter, the Board will grant the applicant a license to engage in~~
8 ~~the practice of general contracting within the appropriate limitation and classification.~~

9 ~~(b) (a) Display. The license certificate granted by the Board, containing the signatures of the Chairman and the~~
10 ~~Secretary Treasurer, must be displayed at all times by the licensee at this place of business. License numbers shall be~~
11 ~~included on all contracts, advertisements, and licensee websites.~~

12 ~~(b) If a licensee files Articles of Dissolution or the N.C. Department of the Secretary of State withdraws the licensee's~~
13 ~~Certificate of Authority, the Board shall archive the license.~~

14
15 *History Note: Authority G.S. 87-1; 87-10; 87-12;*

16 *Eff. February 1, 1976;*

17 *Readopted Eff. September 26, 1977;*

18 *Amended Eff. May 1, 1989;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
20 *~~2016.~~ 2016;*

21 *Amended Eff. April 1, 2018.*

1 21 NCAC 12 .0502 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0502 SPECIAL TEMPORARY LICENSE**

4 ~~Under no circumstances will any special or~~ The Board shall issue a temporary license or permit be granted. ~~only as~~
5 required by G.S. 93B-15.1

6

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

8 *Eff. February 1, 1976;*

9 *Readopted Eff. September 26, 1977;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

11 *~~2016.~~ 2016.*

12 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0503

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

Rule .0204(d) requires that surety information be provided in annual license renewal forms; however, I don't see that requirement here. Was this intentional? I see this as being a potential clarity issue as there appear to be conflicting requirements.

In (a), by "applicants", did you mean "applications"?

In (a)(8), please add a comma after "registration"

In (a)(9), what are the required contents of the form for the financial statement? [G.S. 150B-2\(8a\)\(d\)](#) states that while the actual form does not need to be in Rule, contents of the form must be in rule or law. Is there a cross-reference available?

Also in (a)(9), what is considered to be an "acceptable substitute" and how is this determined? Please add a comma following "acceptable substitute." I'm having a bit of trouble understanding the overall intent here – I think that it is requiring that either a representative of the licensee complete the financial statement on the Board's form or "an acceptable substitute" (which I think has some clarity issues) OR a financial statement completed by a CPA? I think that perhaps a bit of rewording might help to clarify.

In (a)(10), since late fees are also included in .0304, please consider changing this to say "the application fee and any applicable late fees as set forth in Rule .0304 of this Chapter."

In (b), how will the Board determine whether someone is unable to meet their financial obligations? I understand that an all-inclusive list is not reasonable here, but some sort of idea as to how the Board will make their decision would be helpful. Is line 29 intended to address this? If so, I'm not sure that's clear. Perhaps some simplifying of this Paragraph would help clarify. Please see the suggestion below.

Amber May
Commission Counsel
Date submitted to agency: January 30, 2018

Also in (b), please consider changing the directive to the regulated public and say something like:

(b) ~~The Board shall require a licensee to submit an audited financial statement if there is any evidence indicating that the licensee may be unable to meet its financial obligations. A licensee shall be required to provide evidence of continued financial responsibility satisfactory to the Board, pursuant to Rule .0204 of this Chapter, if there are indications~~ submit an audited financial statement as evidence of continued financial responsibility in accordance with Rule .0204 of this Chapter if the Board finds ~~that the licensee is insolvent, financially unstable, or unable to meet its financial responsibilities based upon the information provided in the renewal application.~~ responsibilities. Except as provided herein, evidence ~~Evidence~~ of financial responsibility shall be subject to approval by the Board in accordance with the requirements of Rule .0204 of this Chapter.

If you choose to use this language, it may need some fine-tuning. Please note that this is only a suggestion and you are in no way required to use it.

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: January 30, 2018

1 21 NCAC 12 .0503 is amended as published in 32:10 NCR 968-981 as follows:

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

4 (a) ~~Form. The Board's renewal form shall require the applicant to include the following information: Applicants for~~
5 renewal of license shall containing the following:

- 6 (1) ~~whether there were any changes made in the status of the licensee's business during the preceding~~
7 year; and ~~the Social Security Number of the applicant and qualifier(s) and tax identification number~~
8 for corporations, LLCs, or partnerships;
9 (2) ~~a financial statement for the licensee's business. The financial statement need not be prepared by a~~
10 certified public accountant or by a qualified independent accountant, but may be completed by the
11 licensee on the form itself. ~~the applicant's contact information;~~
12 (3) ~~the name of business under which licensee will be operating, if any;~~
13 (4) ~~information regarding any changes made in the status of the licensee's business, since the initial~~
14 application or last renewal was submitted to the Board, whichever is later;
15 (5) ~~confirmation of license limitation and classifications;~~
16 (6) ~~information about all crimes of which the applicant has been convicted since the initial application~~
17 or last renewal was submitted to the Board, whichever is later;
18 (7) ~~documentation regarding all crimes referenced above;~~
19 (8) ~~information indicating whether the applicant has any disciplinary history with any other~~
20 occupational licensing, registration or certification agency since the initial application or last
21 renewal was submitted to the Board, whichever is later;
22 (9) ~~a financial statement prepared by a representative of the licensee on a form provided by the Board,~~
23 an acceptable substitute or by a certified public accountant to demonstrate continued financial
24 responsibility pursuant to Rule .0204 of this Chapter; and
25 (10) ~~the application fee as set forth in Rule .0304 of this Chapter and any accrued late fees.~~

26 (b) The Board shall require a licensee to submit an audited financial statement if there is any evidence indicating that
27 the licensee may be unable to meet its financial obligations. A licensee shall be required to provide evidence of
28 continued financial responsibility satisfactory to the Board, pursuant to Rule .0204 of this Chapter, if there are
29 indications that the licensee is insolvent, financially unstable, or unable to meet its financial responsibilities. ~~Except~~
30 ~~as provided herein, evidence~~ Evidence of financial responsibility shall be subject to approval by the Board in
31 accordance with the requirements of Rule .0204 of this Chapter.

32 (c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of
33 its filing. A licensee in bankruptcy shall provide to the Board an audited financial statement prepared by a certified
34 public accountant with a classified balance sheet as part of any application for renewal. ~~A corporate licensee shall~~
35 ~~notify the Board of its dissolution, suspension of its corporate charter, or withdrawal of its Certificate of Authority~~
36 ~~within 30 days of such dissolution, suspension, or withdrawal.~~

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

3 ~~(d)~~ (e) Upon receipt of a written request by or on behalf of a licensee who is currently in good standing with the
4 Board, is serving in the armed forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to
5 file a tax return, the Board shall grant that same extension of time for complying with renewal application deadlines,
6 for paying renewal fees, and for meeting any other requirement or conditions related to the maintenance or renewal of
7 the license issued by the Board. The applicant shall furnish to the Board a copy of the military orders or the extension
8 approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0504

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

In (a)(1), please add a comma after "qualifiers" and change "corporation" to "corporations" (assuming that's what you mean.)

In (a)(4), please remove the comma after "licensee's business"

In (a)(7), what is meant by "financial responsibility pursuant to Rule .0204." Is Rule .0204 being cited to show what evidence is required to show the financial responsibility? Specifically (b)(2) if going from a limited license to an intermediate license and (c)(2) if going from an intermediate license to an unlimited license? Does a surety bond come into play here?

Please add G.S. 87-4 to your History Note.

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: January 30, 2018

1 21 NCAC 12 .0504 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0504 INCREASE IN LIMITATION**

4 (a) General. A person, ~~firm~~ firm, or corporation holding a valid license to engage in the practice of general contracting
5 in North Carolina may apply for a different limitation by making application for such different limitation with the
6 ~~Board on a form prescribed and furnished by the Board.~~ The application shall contain the following:

- 7 (1) the Social Security Number of individual applicant, qualifier(s) and tax identification number for
8 corporation, LLCs, or partnerships;
9 (2) the applicant's contact information;
10 (3) the exact name of the business as reflected on the previously issued license that is subject to the
11 limitation increase application;
12 (4) information regarding any changes made in the status of the licensee's business, since the initial
13 application or last renewal was submitted to the Board, whichever is later;
14 (5) confirmation of license limitation and classifications;
15 (6) requested limitation;
16 (7) an audited financial statement to be prepared by a certified public accountant to demonstrate
17 financial responsibility pursuant to Rule .0204; and
18 (8) the application fee as set forth in Rule .0304 of this Chapter.

19 ~~(b) Request.~~ A request for the required application form may be made at the address shown in Rule .0101 of this
20 Chapter.

21 ~~(c) Form.~~ The application form for a change in limitation requires the applicant to set forth his professional
22 qualifications and his present and past experience in general contracting. An audited financial statement prepared by
23 a certified public accountant or by an independent accountant who is engaged in the public practice of accountancy is
24 required with the application for change in limitation.

25 ~~(d)~~ (b) Eligibility. An applicant ~~for a new limitation is~~ shall be eligible for ~~the requested change~~ a new limitation if
26 he or she possesses the qualifications ~~for the limitations as set forth in~~ necessary in accordance with Rule .0204 of this
27 Chapter ~~with the exception that such applicant~~ Chapter, except that he or she shall not be required to take a written
28 examination. exam.

29 ~~(e) Filing Deadline.~~ An applicant who wishes to have his application considered for a change in limitation must file
30 his application no later than the first day of the month preceding any regularly scheduled meeting of the Board. At
31 such meeting the Board will consider the application. Regular meetings of the Board are in January, April, July and
32 October of each year.

33 ~~(f) Fees.~~ The fees for issuance of limited, intermediate, and unlimited licenses are as provided by G.S. 87-10.

34 ~~(g) Notice of Approval.~~ Within two weeks after the regular meeting of the Board in which a timely filed application
35 is considered, the Board will notify the applicant of its decision. If the application is approved, a certification of
36 license in the new limitation will be issued by the Board and the applicant, as of the time of notice of the approval,
37 may conduct himself or itself in accordance with the rights available under the limitation granted.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0505

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*In the History Note, G.S. 87-8 seems to speak to your Secretary's duties.
Please add G.S. 87-4 and any other authorizing statutes for this provision.*

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: January 30, 2018

1 21 NCAC 12 .0505 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0505 MAINTAINING CURRENT ADDRESS; NOTIFICATION OF ADDRESS**
4 **CHANGE**

5 ~~Applicants for licensure and holders of a valid license shall notify the Board in writing of a change in address within~~
6 ~~30 days from the date of the change.~~

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

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

12

13 *History Note: Authority G.S. 87-8;*

14 *Eff. June 1, 1992;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
16 *~~2016.~~ 2016;*

17 *Amended Eff. April 1, 2018.*

1 21 NCAC 12 .0506 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0506 CHARGE FOR STATUS OF LICENSURE**

4 The Board shall charge persons requesting a verified copy of all or part of its roster of licensed contractors a fee to
5 cover the cost of copying and mailing. ~~The Board shall furnish copies free of charge to governmental entities.~~

6

7 *History Note: Authority G.S. 87-8; 87-13; 150B-19(5);*

8 *Eff. June 1, 1992;*

9 *Amended Eff. May 1, 2006; May 1, 1995;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

11 *~~2016-2016;~~*

12 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0701

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

In (a), by G.S. 87-11, do you mean "fraud, deceit, negligence, or misconduct" as set forth in (87-11(a1)? If so, please consider saying that. Alternatively, is this Rule intended to allow for complaints for any violation of Article 1 of Chapter 87 of the General Statutes and your Rules? I just want to be sure that I understand what is going on here, particularly with the citation to 150B-38 in the History Note.

In (a), line 5, what is to be included in the Complaint? Are there any specific requirements? Is this to be submitted on a form of the Board?

In (a), line 7, is "person or corporation" an all inclusive list? Please consider changing this to "licensee" as the statute references a "a general contractor licensed under this Article." As written, it appears as though groups of people are being missed.

In (b), a lot of this information appears to be related to internal management as to how the Board will handle the complaints internally, but it is not addressing how the Board will make its decisions nor what is going to be required of the contractor? Much of this information appears to be unnecessary. If it is necessary, please be sure to provide what factors the Board will use in determining its course of action and what is expected of the licensee. For example, on line 14, I assume that by "The notice shall request..." you actually mean that "the licensee shall respond..."

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: January 30, 2018

1 21 NCAC 12 .0701 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **SECTION .0700 – BOARD DISCIPLINARY PROCEDURES**
4

5 **21 NCAC 12 .0701 IMPROPER PRACTICE**

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

10 (b) Preliminary or Threshold Determination:

11 (1) A complaint filed in accordance with G.S. 87-11(a1) shall be forwarded to a staff investigator for
12 investigation. ~~Simultaneously, Within 30 days,~~ the Board shall forward a written notice of ~~and~~
13 ~~explanation of the charge to the person or corporation~~ the complaint to the licensee and qualifier(s)
14 against whom the charge is made. The notice shall request a response from the ~~person or corporation~~
15 ~~so charged to show compliance with all lawful requirements for retention of the license.~~ licensee
16 and qualifier(s). The Board shall send notice of the charge and of the alleged facts or alleged conduct
17 by first class mail to the last known address ~~of the person or corporation.~~ and by email to the address
18 of the licensee and qualifier(s).

19 (2) After the investigation is complete, the charge shall be referred to the review committee. The review
20 committee shall consist of the following individuals:

- 21 (A) one member of the Board;
22 (B) the Secretary-Treasurer or his designee; and
23 (C) ~~either a staff person or Board member~~ agreed upon by the individuals listed above.

24 (3) The review committee shall recommend to the Board that:

- 25 (A) The charge be ~~dismissed as unfounded or trivial;~~ dismissed;
26 (B) When the charge is admitted as true by the ~~respondent,~~ licensee and qualifier(s), the Board
27 accept the ~~respondent's~~ licensee's and qualifier(s)' admission of guilt and order the
28 ~~respondent~~ licensee and qualifier(s) not to commit in the future the act or acts admitted by
29 him to have been violated and not to violate any of the acts of misconduct specified in G.S.
30 87-11 at any time in the future; or
31 (C) The charge, whether admitted or denied, be presented to the full Board for a hearing and
32 determination by the Board on the merits of the charge in accordance with the substantive
33 and procedural requirements of the provisions of Section .0800 of this Chapter and the
34 provisions of G.S. 87-11. Prior to the charge's being heard and determined by the Board,
35 it may be resolved by consent order.

36 ~~(4) The review committee shall not be required to notify the parties of the reasons for its~~
37 ~~recommendation.~~

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

3
4 *History Note: Authority G.S. 87-4; 87-11; 150B-3; 150B-38;*
5 *Eff. February 1, 1976;*
6 *Readopted Eff. September 26, 1977;*
7 *Amended Eff. April 1, 2014; June 1, 2011; April 1, 2006; April 1, 2003; May 1, 1989;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
9 *~~2016.~~ 2016;*
10 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0702

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

In (a), line 4, what is to be included in the Complaint? Do you require any specifics? I assume that you will want the GC's information, conduct at issue, etc?

In (b), a lot of this information appears to be related to internal management as to how the Board will handle the complaints internally, but it is not addressing how the Board will make its decisions? Is (b) necessary? If so, please be sure to provide what factors the Board will use in determining its course of action.

In (b)(3), please change "believes" to "determines"

Please add G.S. 87-13.1 to your History Note.

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: January 30, 2018

1 21 NCAC 12 .0702 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0702 UNLAWFUL UNLICENSED PRACTICE**

4 (a) Complaint. Any person who believes that ~~any a~~ person, ~~firm~~ firm, or corporation is in violation of the acts specified
5 in G.S. 87-13 may ~~bring charges~~ file a complaint against that person, firm, or corporation. The ~~charges~~ complaint
6 shall be filed with the ~~Secretary-Treasurer of the Board at the Board's mailing address in Rule .0101 of this Chapter.~~
7 Board.

8 (b) Preliminary or Threshold Determination:

9 (1) A complaint filed in accordance with G.S. 87-13 shall be forwarded to a staff investigator for
10 investigation. Board staff shall investigate the charge to determine whether there is probable cause
11 to believe that a party against whom a charge has been brought violated the provisions of G.S. 87-
12 13.

13 (2) After the investigation is complete, the charge shall be referred to the review committee. The review
14 committee shall consist of the following individuals:

15 (A) one member of the Board;

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

17 (C) ~~either a staff person or Board member~~ agreed upon by the individuals listed above.

18 (3) If the review committee ~~finds probable cause,~~ believes that probable cause exists that a person,
19 firm, or corporation is practicing general contracting without a license, it shall ~~forward the decision~~
20 ~~along with the reasons for the decision and any evidence accumulated by it to Board counsel for~~
21 ~~appropriate action.~~ recommend to the Board that injunctive relief be sought. If the Board concurs
22 with the review committee's recommendation, the investigation shall be forwarded to Board counsel
23 to seek injunctive relief. If the review committee does not ~~find probable cause,~~ it shall notify the
24 complainant. believe that the person, firm, or corporation is practicing general contracting without
25 a license, it shall recommend to the Board dismissal of the complaint. Once dismissed, the Board
26 shall notify the complainant.

27
28 *History Note: Authority G.S. 87-1; 87-4; 87-13;*

29 *Eff. February 1, 1976;*

30 *Readopted Eff. September 26, 1977;*

31 *Amended Eff. April 1, 2014; June 1, 2011; May 1, 1989;*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
33 *~~2016.~~ 2016;*

34 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0703

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

In (a), please delete "subsequently"

In (a), please change "for any reason" to "insufficient funds or because the drawer did not have an account at that bank" to match the statutory language of G.S. 25-3-506.

Paragraph (c), please change "shall be deemed to have commenced" to "shall commence"

Given 87-10(e), is (e) necessary?

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: January 30, 2018

1 21 NCAC 12 .0703 is amended as published in 32:10 NCR 968-981 as follows:

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21 NCAC 12 .0703 FEE FOR SUBMITTAL OF BAD CHECK

(a) The Board shall charge ~~any the maximum processing~~ fee allowed by ~~law~~ G.S. 25-3-506 if a check submitted to the Board is subsequently returned ~~due to insufficient funds at or no account in~~ for any reason by a financial institution.

(b) Until such time as the drawer of the bad check has paid the prescribed fee, the drawer ~~will~~ shall not be eligible to take an examination, review an examination, obtain a license, or have the license renewed. For the purpose of this Rule, "prescribed fee" shall mean the sum of:

- (1) the ~~maximum processing~~ fee ~~described in Paragraph (a) of this Rule;~~ allowed by G.S. 25-3-506;
- (2) the renewal or application fee, whichever is applicable; and
- (3) the late payment fee described in G.S. 87-10(e).

(c) Any license ~~which that~~ has been issued or renewed based on a check which is ~~subsequently~~ returned to the Board ~~for reasons stated in Paragraph (a) of this Rule is~~ shall be invalid until such time as the drawer has paid the prescribed fee. The invalidity of the license or renewal shall be deemed to have commenced on the date of the issuance of the license or renewal.

(d) Payment of the prescribed fee to the Board shall be made in the form of a cashier's ~~check or money order.~~ check, money order, credit card, or debit card.

(e) In the event the drawer of the bad check fails to pay the prescribed fee, during which time the license or renewal lapses for four years, ~~no renewal shall be effected~~ the license shall not be renewed and the ~~drawer~~ licensee for whom the check was to benefit shall fulfill all requirements of a new applicant set forth in G.S. ~~87-10.~~ 87-10 and Rules .0303 and .0503 of this Chapter.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0817

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

*Please format this repeal in accordance with 26 NCAC 02C .0108(6)(a)(iii).
Specifically, please delete the text, rather than striking through it.*

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: January 30, 2018

1 21 NCAC 12 .0817 is repealed as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0817 RIGHT TO HEARING**

4 ~~When the Board acts or proposes to act, other than in rule making or declaratory ruling proceedings, in a manner~~
5 ~~which will affect the rights, duties, privileges or a license of a specific, identifiable person, such person has the right~~
6 ~~to an administrative hearing. When the Board proposes to act in such a manner, it shall give such person notice of~~
7 ~~their right to a hearing by mailing by certified mail to them at their last known address a notice of the proposed action~~
8 ~~and a notice of a right to a hearing.~~

9

10 *History Note: Authority G.S. 87-11(b); 150B-11; 150B-38;*

11 *Eff. September 1, 1988;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

13 *~~2016.~~ 2016;*

14 *Repealed Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0818

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

In (a), who is an "aggrieved person"? I assume that you mean something like "Any person whose rights, duties, or privileges are affected by official actions of the Board...?"

In (a), please consider saying "a request for hearing pursuant to 150B-38 before the Board" rather than just "a request."

Please add G.S. 87-4 to your History Note.

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: January 30, 2018

1 21 NCAC 12 .0818 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0818 REQUEST FOR HEARING**

4 ~~(a) Any time an aggrieved person believes his rights, duties, or privileges have been affected by the Board's~~
5 ~~administrative action, but has not received notice of a right to an administrative hearing pursuant to Rule .0817 of this~~
6 ~~Section, the aggrieved person may file a request for an administrative hearing.~~

7 ~~(b) Before an aggrieved person may file a request he must first exhaust all reasonable efforts to resolve the issue~~
8 ~~informally with the Board.~~

9 ~~(c) (a) Subsequent to such informal action, if still dissatisfied, the~~ An aggrieved person ~~shall~~ may submit a request in
10 writing to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING.

11 The request shall contain the following information:

12 (1) ~~Name~~ name and address of the aggrieved ~~person, person;~~

13 (2) ~~A~~ a statement of the action taken by the Board ~~which that is challenged, challenged; and~~

14 (3) ~~A~~ a statement of the way in which the aggrieved person has been ~~aggrieved, and aggrieved.~~

15 (4) ~~A request for a hearing.~~

16 ~~(d) (b) An aggrieved person shall submit a request for an administrative hearing to the Board's office within 60 days~~
17 ~~of receipt of notice of the action taken by the Board which is challenged. The~~ Upon receipt of a request for a hearing,
18 the Board shall acknowledge the request and schedule a hearing.

19

20 *History Note: Authority G.S. ~~87-11(b); 87-11; 150B-11; 150B-38;~~*

21 *Eff. September 1, 1988;*

22 *Amended Eff. June 1, 2011; August 1, 2002;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
24 *~~2016.~~ 2016;*

25 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0820

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

Given 150B-38(b), is (a) necessary?

Given G.S. 150B-3(c), is (b) necessary?

If (b) is necessary, what is "such action" referring to? Also, how is the Board to determine that the public health, safety, or welfare requires a hearing? Please provide some additional information as to how this determination will be made.

Please add G.S. 87-4 to the History Note.

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: January 30, 2018

1 21 NCAC 12 .0820 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0820 NOTICE OF HEARING**

4 (a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the
5 hearing. Said notice shall ~~contain the following information, in addition to the items specified in comply with G.S.~~
6 ~~150B-38(b);~~ 150B-38(b).

7 (1) ~~the name, position, address and telephone number of a person at the offices of the Board to contact~~
8 ~~for further information or discussion;~~

9 (2) ~~the date, time, and place for a pre hearing conference, if any; and~~

10 (3) ~~any other information deemed relevant to informing the parties as to the procedure of the hearing.~~

11 (b) If the Board determines that the public health, ~~safety~~ safety, or welfare requires such action, it may issue an order
12 summarily suspending a license or permit. Upon service of the order, the licensee or permit holder to whom the order
13 is directed shall ~~immediately~~ cease the practice of general contracting in North Carolina. The Board shall ~~promptly~~
14 give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect
15 pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

16

17 *History Note: Authority G.S. 87-11(b); 150B-3(c); ~~150B-11~~; 150B-38;*

18 *Eff. October 1, 1988;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
20 *~~2016.~~ 2016;*

21 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0826

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

Given G.S. 150B-40(a), is this Rule necessary? It appears to recite statute.

If this Rule is necessary, on line 4, what is your authority to say what an ALJ may do? I assume this is covered by 150B, rather than these Rules.

What is "proper" in "proper notice"? Is this in accordance with .0820 and 150B-38? If so, please say that rather than "proper."

How will the Board make the decision whether it will grant a continuance to give the party another opportunity to appear? Please provide some factors as to how "good cause" will be determined.

Please add G.S. 87-4 to the History Note.

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: January 30, 2018

1 21 NCAC 12 .0826 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0826 FAILURE TO APPEAR**

4 Should a party fail to appear at a scheduled hearing, the Board, or the designated administrative law judge, may
5 proceed with the hearing and make its decision in the absence of the party, provided that the party has been given
6 proper ~~notice.~~ notice and unless otherwise directed by law. The Board ~~or the administrative law judge~~ may order a
7 continuance in order to give the party another opportunity to ~~appear.~~ appear upon good cause shown.

8

9 *History Note: Authority G.S. 87-11(b); ~~150B-11~~; 150B-38; 150B-40;*

10 *Eff. October 1, 1988;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

12 *~~2016.~~ 2016;*

13 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0827

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

It appears as though several changes have been made to this Rule without the changes being shown in accordance with 26 NCAC 02C .0108 and .0405. Please do so.

I understand that this is an older Rule and at the time it may have been necessary, but given G.S. 150B-39(c) which says that subpoenas may be issued and served in accordance with G.S. 1A-1, Rule 45, is this Rule necessary? Much of this Rule is covered by Rule 45.

Please consider turning (a) into a list to assist with clarity. A suggestion would be as follows:

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

~~shall:~~ ~~shall~~

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

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

In (a), how is your regulated public to know the date, time, and place for responding to the subpoena?

Again is (b) necessary? Not only would the Statute control, but this is a directive for the Board since it will issue the Subpoena. Also, it appears as though the language differs slightly from that of Rule 45.

If (b) is necessary, consider adding the clause "the following" after "contain:" and then provide the items listed in a list format through line 10

In (b), add a comma after "hour"

Amber May
Commission Counsel

Date submitted to agency: January 30, 2018

In(b), line 10, what is meant by “particularized description.” Please delete or define “particularized”

Line 11, add a comma after “records”

Line 13, replace “shows” with “shall show”

In (d) and (e), I assume that you intend to limit the reasons to object to a Subpoena to those grounds contained in (c)(3) of Rule 45?

Please consider combining (d) and (e) so that it reads something like the following:

(d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. **The objection shall include a statement of the reasons why the subpoena should be revoked or modified.**

~~(e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.~~

As reflected in the suggested language, in (e), please delete or define “concise” and “but complete”

In (f), please delete “such”

In (f) and (g), please delete or define “simultaneously”

In (g), how will the Board determine how much time will be allowed to respond?

In (h), line 31, do you mean “may” or “shall”? Under what circumstances would the Board notify another party of the hearing?

In (h), define or delete “as soon as practicable.” How is this determined?

In (h), what is your authority to provide directive to an ALJ?

Please add 150B-39 to the authority in the History Note.

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

1 21 NCAC 12 .0827 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0827 SUBPOENAS**

4 (a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either
5 at a hearing or for the purposes of discovery, shall be made in writing to the Board and shall identify any document
6 sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed
7 and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas
8 within three days of receipt of the request.

9 (b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour
10 and location of the hearing in which the witness is commanded to appear; a particularized description of the books,
11 papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on
12 whose application the subpoena was issued; the date of issue; the signature of the presiding officer or his designee;
13 and a "return of service." The "return of service" form as filled out, shows the name and capacity of the person serving
14 the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which
15 service was made, the person on whom service was made, the manner in which service was made, and the signature
16 of the person making service.

17 (c) Subpoenas shall be served ~~by the sheriff of the county in which the person subpoenaed resides, when the party~~
18 ~~requesting such subpoena prepays the sheriff's service fee. in a manner set forth in Rule 45 of the N.C. Rules of Civil~~
19 Procedure. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person
20 serving the subpoena shall fill out the "return of service" form for each copy and properly return one copy of the
21 subpoena, with the attached "return of service" form completed, to the Board.

22 (d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena
23 with the Board's office.

24 (e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked
25 or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in
26 law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be
27 so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.

28 (f) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with
29 the filing of the objection with the Board.

30 (g) The party who requested the subpoena, in such time as may be granted by the Board, may file a written response
31 to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously
32 with filing the response with the Board.

33 (h) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested
34 the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to
35 be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow
36 questions raised by the objection and response.

1 (i) Promptly after the close of such hearing, a majority of the Board members with voting authority, or an
2 administrative law judge assigned to the case pursuant to G.S. 150B-40(e), will rule on the challenge and issue a
3 written decision. A copy of the decision will be issued to all parties and made a part of the record.

4

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

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
8 *~~2016.~~ 2016;*

9 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0829

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

Given 150B-42, is this Rule necessary?

Please add G.S. 87-4 to the History Note.

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: January 30, 2018

1 21 NCAC 12 .0829 is amended as published in 32:10 NCR 968-981 as follows:

2

3 **21 NCAC 12 .0829 FINAL DECISION**

4 In all cases heard by the Board, the Board ~~will~~ shall issue its decision within 60 days ~~after its next regularly scheduled~~
5 ~~meeting~~ following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right
6 to judicial review.

7

8 *History Note: Authority G.S. 87-11(b); ~~150B-11~~; 150B-38; 150B-42;*

9 *Eff. September 1, 1988;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*

11 *~~2016-2016~~;*

12 *Amended Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0830

DEADLINE FOR RECEIPT: Friday, February 9, 2018

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 the following technical changes be made:

For Paragraph (a) of this Rule, this appears to be providing a directive to the ALJs, which I am certain is not the intent of the agency. Consider the following re-write:

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

In (a), please note that 26 NCAC 03 .0127 allows for an extension of the 45 days. If you choose not to use the suggestion above, I would very strongly suggest that you remove the 45 day reference, and simply cross-reference 26 NCAC 03 .0127.

In (b), what is meant by “exceptions to the procedure during the hearing”? This language is not contained within 150B. When would it be appropriate to do this? When a party disagrees with the proposal for decision?

In (b), line 10, please delete the comma after “matter”?

In (b), line 11, please delete or define “precisely”

What is the “oral argument” referenced in (c) and (d)? I assume that this is regarding 150B-40(e), but I think some additional information would be helpful here. Also, what is to be included in the request?

In (e), what is the purpose of the clause “Giving due consideration...of the parties,”? It seems unnecessary. Consider deleting

Line 19, replace “it” with “the decision”

Line 19, delete “as the Board deems necessary” or provide factors as to how the Board will make this determination.

Amber May
Commission Counsel
Date submitted to agency: January 30, 2018

Line 21, replace "Said" with "The"

Please add G.S. 87-4 to your History Note.

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: January 30, 2018

1 21 NCAC 12 .0830 is amended as published in 32:10 NCR 968-981 as follows:

2
3 **21 NCAC 12 .0830 PROPOSALS FOR DECISIONS**

4 (a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall
5 be rendered within 45 days of the hearing pursuant to the Rules of the Office of Administrative Hearings, 26 NCAC
6 03 .0127. Any party may file written exceptions to this "proposal for decision" and submit their own proposed findings
7 of fact and conclusions of law. The exceptions and alternative proposals must be received within ten days after the
8 party has received the "proposal for decision" as drafted by the administrative law judge.

9 (b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge,
10 rulings on evidence, or any other matter, must be written and refer specifically to pages of the record or otherwise
11 precisely identify the occurrence to which exception is taken. The exceptions must be filed with the Board within ten
12 days of the receipt of the proposal for decision. The written exceptions shall bear the notation: EXCEPTIONS TO
13 THE PROCEEDINGS IN THE CASE OF (Name of case).

14 (c) Any party may present oral argument to the Board upon request. The request must be included with the written
15 exceptions.

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

18 (e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board
19 may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered shall be
20 a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final
21 agency decision" for the right to judicial review. Said decision shall be rendered by the Board within 60 days of the
22 ~~next regularly scheduled meeting following the oral arguments, if any.~~ from the date oral arguments were presented
23 to the Board. If there are no oral arguments presented, the decision shall be rendered within 60 days of the ~~next~~
24 ~~regularly scheduled board meeting following receipt of the written exceptions.~~ date on which the Board rendered its
25 decision.

26
27 *History Note: Authority G.S. 87-11(b); 150B-38; 150B-40;*

28 *Eff. September 1, 1988;*

29 *Amended Eff. July 1, 2008;*

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
31 *~~2016.~~ 2016;*

32 *Amended Eff. April 1, 2018.*