

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: ALL RULES FILED (Except 21 NCAC 12 .0901 and .0906)

DEADLINE FOR RECEIPT: MARCH 14, 2014

NOTE WELL: This request when viewed on computer may extend several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

Please add the agency's general rulemaking authority. The statutes cited as authority provide only implied, not explicit rulemaking authority. Is there any?

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0103

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

Paragraph (c)(2) address "special meetings" of the board. G.S. 87-6 requires that the bylaws of the board address holding special meetings. It seems to me that the rules should provide something along the lines, "Special meetings shall be held as set out in the bylaws of the Board." This would prevent any inconsistency or possible conflict between the bylaws and the rules over this issue.

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Joseph J. DeLuca, Jr.
Commission Counsel

§ 87-6. Meetings; notice; quorum.

The Board shall meet twice each year, once in April and once in October, for the purpose of transacting such business as may properly come before it. At the April meeting in each year the Board shall elect officers. **Special meetings may be held at such times as the Board may provide in the bylaws it shall adopt.** Due notice of each meeting and the time and place thereof shall be given to each member in such manner as the bylaws may provide. Five members of the Board shall constitute a quorum. (1925, c. 318, s. 6; 1979, c. 713, s. 8.)

1 21 NCAC 12 .0103 is amended, with changes, as published in 28:06 NCR 534-535:

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

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

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

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

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

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

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

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

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

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Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2014; August 1, 2002; January 1, 1992; May 1, 1989; January 1, 1983.

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0202

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (a)(1) line 7 I believe the rule would read better, and perhaps be slightly more correct, if "also" were deleted.

I think I can correctly read (a)(1); however I don't believe it is grammatically correct. Here is the way I would punctuate it: "It includes parking decks; all site work, grading and paving of parking lots, driveways, sidewalks, and curbs and gutters; storm drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor recreational facilities including . . . and seating."

In line 11 I believe you should change "Covers" to "It also covers [or perhaps 'includes']."

In (a)(5)(C)(ii), page 2 lines 21 and 22, it seems to me that "Cable TV and Master Antenna TV Systems" should be lower case (except for "TV") since it does not describe a particular system.

In that same part, in line 23 there is highlighting but no underlining or strikethrough. It is not clear what sort of change is attempting to be shown.

In (a) . . . (2)(iii) line 23 the "d" in "underground" is not underlined and highlighted.

On page 3 . . . (F) line 6 "trenching" is twice struck through and highlighted. The change is not clear.

In . . . (H) on page 3 line 16 I would change the comma after "wastewater systems," to a semicolon and in line 17 put a semicolon after "facilities."

In . . . (R) on page 5 "demolition" or "removal" of wind turbines is not included. Should it be included?

In (b) line 18 it seems to me that "that" is referring back to "qualifications." If that is the case "includes" should be "include" and "examination" should be "examinations."

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0202 is amended **with changes** as published in 28:06 NCR 535-538 as follows:

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

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

- 5 (1) Building Contractor. This classification covers all building construction activity including:
6 commercial, industrial, institutional, and all residential building ~~construction;~~ **construction.** **It**
7 **also includes** parking ~~decks;~~ decks, all site work, grading and paving of parking lots, driveways,
8 sidewalks, curbs, gutters, storm drainage, retaining or screen walls, and water and wastewater
9 ~~systems which are ancillary to the aforementioned structures and improvements;~~ hardware and
10 accessory structures, indoor and outdoor recreational facilities including natural and artificial
11 surface athletic fields, running tracks, bleachers, and seating. Covers ~~and~~ work done under the
12 specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction),
13 S(Marine Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming
14 Pools), and S(Asbestos).
- 15 (2) Residential Contractor. This classification covers all **building** construction activity pertaining to
16 the construction of residential units which 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
20 classifications of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing),
21 S(Swimming 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 principal project, bridge construction and repair, culvert
25 construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. **It also**
26 includes installation and erection of guard rails, fencing, signage and ancillary highway hardware;
27 covers paving and grading of airport and airfield runways, taxiways, and aprons, including the
28 installation of fencing, signage, runway lighting and marking; and work done under the specialty
29 classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine Construction),
30 S(Railroad Construction), and H(Grading and Excavating).
- 31 (4) Public Utilities Contractor. This classification includes ~~those whose~~ operations **that** are the
32 performance of construction work on water and wastewater systems and on the subclassifications
33 of facilities set forth in G.S. 87-10(b)(3). The Board may issue a license to a public utilities
34 contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the
35 contractor qualifies. A public utilities contractor license covers work done under the specialty
36 classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution),

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

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

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

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

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

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

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

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

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

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

33 (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction,
34 installation, alteration, ~~maintenance~~ maintenance, or repair of an electrical wiring system,
35 including sub-stations or components thereof, which is or is intended to be owned,
36 operated and maintained by an electric power supplier, such as a public or private utility,

1 a utility cooperative, or any other properly franchised electric power supplier, for the
2 purpose of furnishing electrical services to one or more customers.

3 (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration,
4 ~~maintenance~~ ~~maintenance~~, or repair of systems for distribution of petroleum fuels,
5 petroleum distillates, natural gas, ~~chemicals~~ ~~chemicals~~, and slurries through pipeline from
6 one station to another. It includes all excavating, ~~trenching~~ ~~trenching~~, and backfilling in
7 connection therewith. It covers the installation, replacement and removal of above
8 ground and below ground fuel storage tanks.

9 (G) PU(Water Lines and Sewer Lines). This classification covers construction work on water
10 and sewer mains, water service lines, and house and building sewer ~~lines~~ ~~lines~~, as defined
11 in the North Carolina State Building Code, and covers water storage tanks, lift stations,
12 pumping stations, and appurtenances to water storage tanks, lift stations and pumping
13 stations. It includes pavement patching, ~~backfill~~ ~~backfill~~, and erosion control as part of
14 such construction.

15 (H) PU(Water Purification and Sewage Disposal). This classification covers the performance
16 of construction work on water and wastewater systems, water and wastewater treatment
17 facilities and all site work, grading, and paving of parking lots, driveways, sidewalks, and
18 curbs and gutters which are ancillary to such construction of water and wastewater
19 treatment facilities. It covers the work done under the specialty classifications of
20 S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry
21 Construction), S(Roofing), and S(Metal Erection) as part of such work on water and
22 wastewater treatment facilities.

23 (I) S(Insulation). This classification covers the installation, ~~alteration~~ ~~alteration~~, or repair of
24 materials classified as insulating media used for the non-mechanical control of
25 temperatures in the construction of residential and commercial buildings. It does not
26 include the insulation of mechanical ~~equipment~~ ~~equipment~~, and ancillary lines and
27 piping.

28 (J) S(Interior Construction). This classification covers the installation of acoustical ceiling
29 systems and ~~panels~~ ~~panels~~, drywall partitions (load bearing and non-load bearing), lathing
30 and plastering, flooring and finishing, interior recreational surfaces, window and door
31 installation, and installation of fixtures, cabinets and millwork. It includes the removal of
32 asbestos and replacement with non-toxic substances.

33 (K) S(Marine Construction). This classification covers all marine construction and repair
34 activities and all types of marine construction in deep-water installations and in harbors,
35 inlets, sounds, bays, and channels; it covers dredging, construction and installation of
36 pilings, piers, decks, slips, docks, and bulkheads. It does not include structures required
37 on docks, slips and piers.

- 1 (L) S(Masonry Construction). This classification covers the installation, with or without the
2 use of mortar or adhesives, of the following:
- 3 (i) ~~Brick, brick~~ concrete block, gypsum partition tile, pumice ~~block block~~, or other
4 lightweight and facsimile units and products common to the masonry industry;
 - 5 (ii) ~~Installation installation~~ of fire clay products and refractory construction; and
 - 6 (iii) ~~Installation installation~~ of rough cut and dressed stone, marble panels and slate
7 units, and installation of structural glazed tile or block, glass brick or block, and
8 solar screen tile or block.
- 9 (M) S(Railroad Construction). This classification covers the building, ~~construction~~
10 ~~construction~~, and repair of railroad lines including:
- 11 (i) ~~The the~~ clearing and filling of rights-of-way;
 - 12 (ii) ~~Shaping, shaping~~, compacting, ~~setting setting~~, and stabilizing of road beds;
 - 13 (iii) ~~Setting setting~~ ties, tie plates, rails, rail connectors, frogs, switch plates,
14 switches, signal markers, retaining walls, dikes, ~~fences fences~~, and gates; and
 - 15 (iv) Construction and repair of tool sheds and platforms.
- 16 (N) S(Roofing). This classification covers the installation and repair of roofs and decks on
17 residential, commercial, industrial, and institutional structures requiring materials that
18 form a water-tight and weather-resistant surface. The term "materials" for purposes of
19 this Subparagraph ~~to~~ includes cedar, cement, asbestos, clay tile and composition shingles,
20 all types of metal coverings, wood shakes, single ply and built-up roofing, protective and
21 reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and
22 downspouts, and bituminous waterproofing.
- 23 (O) S(Metal Erection). This classification ~~covers covers~~:
- 24 (i) ~~The the~~ field fabrication, erection, ~~repair repair~~, and alteration of architectural
25 and structural shapes, plates, tubing, pipe and bars, not limited to steel or
26 aluminum, that are or may be used as structural members for buildings,
27 ~~equipment equipment~~, and structure; and
 - 28 (ii) ~~The the~~ layout, assembly and erection by welding, bolting or riveting such metal
29 products as curtain walls, tanks of all types, hoppers, structural members for
30 buildings, towers, stairs, conveyor frames, cranes and crane runways, canopies,
31 carports, guard rails, signs, steel scaffolding as a permanent structure, rigging,
32 flagpoles, fences, steel and aluminum siding, bleachers, fire escapes, and seating
33 for stadiums, arenas, and auditoriums.
- 34 (P) S(Swimming Pools). This classification covers the construction, ~~service service~~, and
35 repair of all swimming pools. It includes:
- 36 (i) ~~Excavation excavation~~ and grading;

1 (ii) Construction construction of concrete, gunite, and plastic-type pools, pool
2 decks, and walkways, and tiling and coping; and

3 (iii) Installation installation of all equipment including pumps, filters and chemical
4 feeders. It does not include direct connections to a sanitary sewer system or to
5 portable water lines, nor the grounding and bonding of any metal surfaces or the
6 making of any electrical connections.

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

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

17 (b) An applicant may be licensed in more than one classification of general contracting provided the applicant
18 meets the qualifications for the classifications, which that includes passing the examination for the classifications in
19 question. The license granted to an applicant who meets the qualifications for all classifications set forth in this
20 Rule will carry with it a designation of "unclassified."

21
22 *History Note: Authority G.S. 87-1; 87-4; 87-10;*

23 *Eff. February 1, 1976;*

24 *Readopted Eff. September 26, 1977;*

25 *Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983;*

26 *Temporary Amendment Eff. February 18, 1997;*

27 *Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003;*

28 *August 1, 2002; April 1, 2001; August 1, 2000; August 1, 1998.*

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0204

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (b)(1) line 20 it seems to me that "and" should be inserted before "must meet."

In (a)(1) and (b)(1) you deleted "in light of" and inserted "must meet." You did not maintain that construction in (c)(1). Is there a reason?

In (d) page 2 line 22 I would suggest changing "shall be" to "is" so that there is no question that it is the operation of law that suspends the license and does not require any further action on the part of the board.

In (g), page 3 line 5, you deleted "statements and statements," and left "audited financial unqualified opinion." Please verify that is correct.

The formatting of the change in "(GAAS)" in line 7 is not correct since you still have to show the change in punctuation deleting the period.

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0204 is amended **with changes** as published in 28:06 NCR 538-539 as follows:

2
3 **21 NCAC 12 .0204 ELIGIBILITY**

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

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

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

- 20 (1) Be entitled to be admitted to the examination given by the Board **in light of must meet** the
21 requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- 22 (2) Be financially stable to the extent that the total current assets of the applicant or the firm or
23 corporation he 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 and
- 27 (3) ~~Successfully complete 70 percent of the examination given the applicant by the Board dealing~~
28 ~~with the specified contracting classification chosen by the applicant. Pass the examination given~~
29 ~~by the Board for the specific contracting classification chosen by the applicant with a score of 70~~
30 ~~percent or higher.~~

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

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

1 (3) ~~Successfully complete 70 percent of the examination given the applicant by the Board dealing~~
2 ~~with the specified contracting classification chosen by the applicant.~~ Pass the examination given
3 by the Board for the specific contracting classification chosen by the applicant with a score of 70
4 percent or higher.

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

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

26 ~~(e) (f) Reciprocity. If an applicant is licensed as a general contractor in another state, the Board, in its discretion,~~
27 ~~need not require the applicant to successfully complete the written examination as provided by G.S.87-15.1.~~
28 ~~However, the applicant~~ An applicant that requests reciprocity as set forth in G.S. 87-15.1 must comply with all
29 other requirements of the rules in this Chapter to be eligible to be licensed in North Carolina as a general contractor.

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

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

9
10 *History Note: Authority G.S. 87-1; 87-4; 87-10; 87-15.1;*
11 *Eff. February 1, 1976;*
12 *Readopted Eff. September 26, 1977;*
13 *Amended Eff. January 1, 1983;*
14 *ARRC Objection March 19, 1987;*
15 *Amended Eff. May 1, 1989; August 1, 1987;*
16 *Temporary Amendment Eff. June 28, 1989 for a Period of 155 Days to Expire on December 1,*
17 *1989;*
18 *Amended Eff. December 1, 1989;*
19 *Temporary Amendment Eff. May 31, 1996;*
20 *RRC Removed Objection Eff. October 17, 1996;*
21 *Amended Eff. August 1, 1998; April 1, 1997;*
22 *Temporary Amendment Eff. August 24, 1998;*
23 *Amended Eff. April 1, 2014; April 1, 2013; August 1, 2008; April 1, 2006; March 1, 2005; August*
24 *1, 2002; April 1, 2001; August 1, 2000.*

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0205

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

I will note in passing that you recite a "recent change" in the statute as the reason the amendment is necessary. Legislation enacted in 2011 is not "recent."

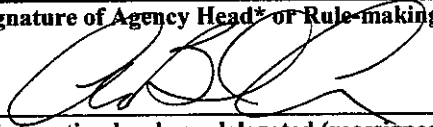
In (c) line 20 I would change "be cancelled" to "is cancelled" for the same reason as the change in .0204. I would also change "87-10" in that same line to "87-10(c)" for ease in finding.

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Licensing Board for General Contractors	
2. Rule citation & name (name not required for repeal): 21 NCAC 12 .0205 FILING DEADLINE/APP SEEKING QUAL/EMP/ANOTHER	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL	4. Exemption. Rule exempt from RRC review according to (cite session law or general statute):
5. Agency obtained G.S. 150B-19.1 certification: <input type="checkbox"/> OSBM certified on: <input type="checkbox"/> RRC certified on: <input checked="" type="checkbox"/> Not Required	
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: September 16, 2013 Link to Agency notice: www.ncibgc.org Hearing on: October 9, 2013 Adoption by agency on: January 22, 2014 <input type="checkbox"/> Notice not required under G.S.: Adoption by agency on:	
7. Fee. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact (check all that apply): <input type="checkbox"/> State funds affected <input type="checkbox"/> Environmental permitting of DOT affected and analysis submitted to Board of Transportation <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input type="checkbox"/> Legislation enacted in last General Assembly session Cite Session Law: <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: This amendment is necessary to conform to recent changes in G.S. 87-10, which extended the period from non-renewal to active from two years to four years.	
10. Rule-making Coordinator: Anna Baird Choi Address: P.O. Drawer 1270, Raleigh, NC 27602 Phone: 919-755-0505 E-Mail: AChoi@allen-pinnix.com Agency Contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Anna B. Choi Title: Rule-making Coordinator
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC Extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 21 NCAC 12 .0205 is amended **with changes** as published in 28:06 NCR 539 as follows:

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

4 (a) Any application made pursuant to G.S. 87-10 for a new applicant seeking **qualifications qualification** by
5 employment of a person who has already passed an examination shall be completed and filed at least 30 days before
6 any regular or special meeting of the Board. At such meeting, the Board shall consider the application. **The regular**
7 **meetings of the Board are in January, April, July and October of each year.**

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

16 (c) The holder of a general contractors license shall notify the Board immediately in writing as to the termination
17 date in the event the qualifying individual or individuals cease to be connected with the licensee. After such notice
18 is filed with the Board, or the Board determines that the qualifying individual or individuals are no longer connected
19 with the licensee, the license shall remain in full force and effect for a period of 90 days from the termination date,
20 and then be cancelled, as provided by G.S. 87-10. Holders of a general contractors license are entitled to
21 reexamination or replacement of the qualifying individual's credentials in accordance with G.S. 87-10, but may not
22 engage in the practice of general contracting for any project whose cost exceeds the monetary threshold set forth in
23 G.S. 87-1 after the license has been cancelled, until another qualifying individual has passed **a required an**
24 examination.

25
26 *History Note: Authority G.S. 87-1; **87-4**; 87-10; **87-11(a)**;*

27 *Eff. February 1, 1976;*

28 *Readopted Eff. September 26, 1977;*

29 *Amended Eff. April 1, 2014; July 1, 2008; April 1, 2006; August 1, 2000; June 1, 1994; June 1,*
30 *1992; May 1, 1989; July 1, 1987.*

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

2

3 **21 NCAC 12 .0209 APPLICATION**

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

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

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

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

15

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

17 *Eff. August 1, 2000.*

18 *Amended Eff. April 1, 2014.*

19

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0309

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (a)(3) line 11 change "evidence" to "documentation" or define "evidence."

I would make the same suggestion for "demonstrating" in line 12. I would expect that you have some specific way in mind, such as database record checks, that they would make this "demonstrat[ion]." Why not make that more specific?

Likewise the same would apply in (b):

- changing "evidence" to "documentation or defining "evidence" in lines 19 and 21; and*
- being specific about what constitutes "demonstrating" in line 22.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0309 is adopted with changes as published in 28:06 NCR 540 as follows:

2
3 **21 NCAC 12 .0309 Licensure for Military-Trained Applicant; Licensure for Military Spouse**

4 (a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1
5 from a military-trained applicant, the Board shall issue a license upon the applicant ~~satisfying~~ who satisfies the
6 following conditions:

- 7 (1) ~~Submit submission of~~ a complete Application for License to Practice General Contracting;
8 (2) ~~Submit submission of~~ a license fee in accordance with G.S. 87-10;
9 ~~(3) Submit written evidence demonstrating that the applicant is currently serving as an active member~~
10 ~~of the U.S. military;~~
11 ~~(4) (3) Provide providing~~ evidence to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
12 ~~(5) (4) Demonstrate demonstrating~~ that the applicant has not committed any act in any jurisdiction that
13 would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at
14 the time the act was ~~committed~~, committed.

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

- 17 (1) ~~Submit submission of~~ a complete Application for License to Practice General Contracting;
18 (2) ~~Submit submission of~~ a license fee in accordance with G.S. 87-10;
19 (3) ~~Submit submission of~~ written evidence demonstrating that the applicant is married to an active
20 member of the U.S. military;
21 (4) ~~Provide providing~~ evidence to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2); ~~and~~
22 (5) ~~Demonstrate demonstrating~~ that the applicant has not committed any act in any jurisdiction that
23 would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at
24 the time the act was ~~committed~~, committed; ~~and~~
25 (6) is in good standing and has not been disciplined by the agency that had jurisdiction to issue the
26 license, certification, or permit.

27
28 *History Note: Authority: ~~G.S. 87-4~~; G.S. 87-4; 93B-15.1*
29 *Eff. April 1, 2014.*
30

1 21 NCAC 12 .0503 is amended with changes as published in 28:06 NCR 540 as follows:

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

4 (a) Form. ~~A licensee's application for renewal requires the licensee to set forth whether there were any changes~~
5 ~~made in the status of the licensee's business during the preceding year and also requires the licensee to give a~~
6 ~~financial statement for the business in question. The financial statement need not be prepared by a certified public~~
7 ~~accountant or by a qualified independent accountant but may be completed by the licensee on the form itself. The~~
8 ~~Board's renewal form shall require the applicant to include the following information:~~

9 (1) ~~whether there were any changes made in the status of the licensee's business during the preceding~~
10 ~~year; and~~

11 (2) ~~a financial statement for the licensee's business. The financial statement need not be prepared by~~
12 ~~a certified public accountant or by a qualified independent accountant, but may be completed by the~~
13 ~~licensee on the form itself.~~

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

20 (c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of
21 its filing. A licensee in bankruptcy shall provide to the Board an audited financial statement with a classified
22 balance sheet as part of any application for renewal. A corporate licensee shall notify the Board of its ~~dissolution or~~
23 ~~suspension~~ dissolution, suspension of its corporate ~~charter~~ charter, or withdrawal of its Certificate of Authority
24 within 30 days of such ~~dissolution or suspension~~ dissolution, suspension or withdrawal.

25 (e) ~~Display. The certificate of renewal of license granted by the Board, containing the signatures of the Chairman~~
26 ~~and the Secretary Treasurer, must be displayed at all times by the licensee at his place of business.~~

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

34
35 *History Note:* Authority G.S. 87-1; 87-4; 87-10; 87-12; 87-13; 93B-15;

36 *Eff. February 1, 1976;*

37 *Readopted Eff. September 26, 1977;*

1 *ARRC Objection March 19, 1987;*
2 *Amended Eff. May 1, 1989; August 1, 1987;*
3 *Temporary Amendment Eff. June 28, 1989 for a period of 155 Days to Expire on December 1,*
4 *1989;*
5 *Amended Eff. December 1, 1989;*
6 *RRC Removed Objection of March 19, 1987 Eff. August 20, 1992 based on subsequent*
7 *amendment;*
8 *Amended Eff. September 1, 1992;*
9 *Temporary Amendment Eff. May 31, 1996;*
10 *Amended Eff. April 1, 2014; June 1, 2011; June 1, 2003; April 1, 2003; August 1, 2002; April 1,*
11 *1997.*
12
13

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0701

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (b)(1) line 9 it seems to me that "87-11(a)(1)" should be "87-11(a1)."

On page 2 in . . . (C) line 6 it seems to me that "charge" should be "charge's" based on the rule that a gerund governs the possessive and it "sounds right" to my ear.

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0701 is amended **with changes** as published in 28:06 NCR 540-541 as follows:

2
3 **21 NCAC 12 .0701 IMPROPER PRACTICE**

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

8 (b) Preliminary or Threshold Determination:

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

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

13 (A) ~~one member of the Board,~~

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

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

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

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

25 (5) (2) ~~After all preliminary evidence has been received by the review committee, it shall make a~~
26 ~~threshold determination of the charges brought. From the evidence, it shall recommend to the~~
27 ~~Board that:~~ After the investigation is complete, the charge shall be referred to the review
28 committee. The review committee ~~is made up~~ shall consist of the following individuals:

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

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

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

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

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

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

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

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

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

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

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

14 *Eff. February 1, 1976;*

15 *Readopted Eff. September 26, 1977;*

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

17

1 21 NCAC 12 .0702 is amended with changes as published in 28:06 NCR 541-542 as follows:

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

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

8 (b) Preliminary or Threshold Determination:

9 (1) A charge of unlawful practice, properly filed, complaint filed in accordance with G.S. 87-13 shall
10 be referred to the review committee; shall be forwarded to a staff investigator for investigation.

11 (2) ~~The review committee is a committee made up of the following individuals:~~

12 (A) ~~one member of the Board,~~

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

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

16 (3) ~~With or without notifying any of the parties involved, the review committee [The] Board staff~~
17 ~~shall investigate the charge to determine whether there is probable cause to believe that a party~~
18 ~~against whom a charge has been brought in fact has violated the provisions of G.S. 87-13; and~~
19 ~~G.S. 87-13.~~

20 (4) (2) ~~After all preliminary evidence has been received, by After the investigation is complete, the~~
21 ~~charge shall be referred to the review committee, it shall: committee. The review committee [is a~~
22 ~~committee made up of] shall consist of the following individuals:~~

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

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

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

27 (3) (A) ~~If the review committee finds probable cause is found, cause, [they] it shall forward the decision~~
28 ~~along with the reasons for the decision and any evidence accumulated by it to Board counsel for~~
29 ~~appropriate action; or action. If no probable cause is found, [the review committee] If the review~~
30 ~~committee does not find probable cause, it shall notify the party preferring charges, complainant.~~

31
32 *History Note:* Authority G.S. 87-1; 87-4; 87-13;

33 *Eff. February 1, 1976;*

34 *Readopted Eff. September 26, 1977;*

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

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0703

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (c) line 14 I would change "will be declared" to "is declared" or even "is invalid" for the same reasons as given for rules .0204 and .0205.

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0703 is amended **with changes** as published in 28:06 NCR 542 as follows:

2
3 **21 NCAC 12 .0703 FEE FOR SUBMITTAL OF BAD CHECK**

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

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

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

11 _____ (2) the renewal or application fee, whichever is **applicable, applicable;** and

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

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

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

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

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

24
25 *History Note:* Authority G.S. 25-3-506; **87-4**; 87-10;

26 *Eff. January 1, 1983;*

27 *Amended Eff. April 1, 2014; April 1, 2003; May 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0901

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (2) line 9 delete or define "simple."

In (4) line 18 change "which" to "that."

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0901 is amended **with changes** as published in 28:06 NCR 542 as follows:

2
3 **21 NCAC 12 .0901 DEFINITIONS**

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

- 6 (1) "Constructing or altering" **includes means** contracting for the construction or alteration of a single-
7 family residential dwelling unit.
- 8 (2) "Dishonest conduct" **means conduct described in G.S. 87-15.5 (3)** but does not include a **mere**
9 **simple** breach of a contract.
- 10 (3) "Incompetent conduct" **is means** conduct which demonstrates a lack of ability or fitness to
11 discharge a duty associated with undertaking to construct or alter a single-family residential
12 dwelling or the supervision of such construction or alteration.
- 13 (4) "Owner or former owner" **includes means** a person who contracted with a general contractor for
14 the construction or purchase of a single-family residential dwelling unit. "Owner or former
15 owner" does not include a person who is a spouse, child, parent, grandparent, sibling, partner,
16 associate, officer, or employee of a general contractor whose conduct caused a reimbursable loss.
17 In addition, the term does not include general contractors or any financial or lending institution, or
18 any owner or former owner of a single-family residential dwelling unit which has been the subject
19 of an award from the Homeowners Recovery Fund resulting from the same dishonest or
20 incompetent conduct. "Owner or former owner" does not include the owner or former owner of
21 real property who purchased, owned, constructed, altered, or contracted for construction or
22 alteration of a single-family residential dwelling unit without intending to occupy the single-
23 family residential dwelling ~~unit~~ unit as a residence.
- 24 (5) "Substantial completion" means that degree of completion of a project, improvement or specified
25 area or portion thereof whereupon the owner can use the same for its intended use.
- 26 (6) "Separately owned residence" means a building whose construction is governed by ~~Volume VII of~~
27 ~~the North Carolina State Building Code,~~ the residential building code adopted by the Building
28 Code Council pursuant to G.S. 143-138.

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30 *History Note:* Authority G.S. 87-15.6;
31 Eff. January 4, 1993;
32 Amended Eff. April 1, 2014; July 1, 2008; April 1, 2007; April 1, 2001; August 1, 2000; August 1,
33 1998.
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REQUEST FOR TECHNICAL CHANGE

March 4, 2012

AGENCY: NC LICENSING BOARD FOR GENERAL CONTRACTORS

RULE CITATION: 21 NCAC 12 .0906

DEADLINE FOR RECEIPT: MARCH 14, 2014

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

In (e) the meaning of the last sentence, "The decision of the Committee is final" is unclear. "Final" as to whom? What sort of "decision" is a recommendation? And since it is only a recommendation, what does it mean for a recommendation to be a "decision [that is] final?" What if the board wanted to ignore the recommendation? Is a recommendation that the application be dismissed a final decision? And even if it is the final agency decision, is that not subject to any sort of appeal?

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.
Commission Counsel

1 21 NCAC 12 .0906 is amended **with changes** as published in 28:06 NCR 542-543 as follows:

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3 **21 NCAC 12 .0906 PROCESSING OF CLAIM APPLICATION**

4 (a) Staff shall refer a **properly** filed application **for a claim** to the Recovery Fund Review Committee. The Recovery
5 Fund Review Committee is a committee made up of the following individuals:

- 6 (1) one member of the **Board, Board;**
7 (2) the legal counsel of the **Board, Board;** and
8 (3) the Secretary-Treasurer.

9 (b) ~~The Committee shall determine, prior to a hearing, whether or not an application is meritless. The decision of~~
10 ~~the Committee is final.~~ Within 30 days after service of a copy of the application upon the general contractor, the
11 general contractor may file a response to the application setting forth answers and defenses. Responses shall be filed
12 with the Board and copies shall be served on the applicant.

13 (c) ~~If the general contractor denies the charges contained in the application, then, an investigator, retained by the~~
14 ~~Board, may perform a field investigation.~~

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

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

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

23 (f) (e) The Committee shall give notice of the ~~threshold determination~~ **recommendation** to the applicant and the
24 general contractor within 10 days of the Committee's decision. The Committee is not required to notify the parties
25 of the reasons for its ~~threshold determination,~~ **recommendation.** **The decision of the Committee is final.**

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27 *History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8;*

28 *Eff. January 4, 1993;*

29 *Amended Eff. April 1, 2014; April 1, 2007.*

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