

1 **Chapter 87.**

2 **Contractors.**

3 Article 1.

4 General Contractors.

5 **§ 87-1. "General contractor" defined; exceptions.**

6 (a) For the purpose of this Article any person or firm or corporation who for a fixed
7 price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to
8 superintend or manage, on his own behalf or for any person, firm, or corporation that is not
9 licensed as a general contractor pursuant to this Article, the construction of any building,
10 highway, public utilities, grading or any improvement or structure where the cost of the
11 undertaking is thirty thousand dollars (\$30,000) or more, or undertakes to erect a North
12 Carolina labeled manufactured modular building meeting the North Carolina State Building
13 Code, shall be deemed to be a "general contractor" engaged in the business of general
14 contracting in the State of North Carolina.

15 (b) This section shall not apply to the following:

16 (1) Persons, firms, or corporations furnishing or erecting industrial equipment,
17 power plan equipment, radial brick chimneys, and monuments.

18 (2) Any person, firm, or corporation who constructs or alters a building on land
19 owned by that person, firm, or corporation provided (i) the building is
20 intended solely for occupancy by that person and his family, firm, or
21 corporation after completion; and (ii) the person, firm, or corporation
22 complies with G.S. 87-14. If the building is not occupied solely by the
23 person and his family, firm, or corporation for at least 12 months following
24 completion, it shall be presumed that the person, firm, or corporation did not
25 intend the building solely for occupancy by that person and his family, firm,
26 or corporation.

27 (3) Any person engaged in the business of farming who constructs or alters a
28 building on land owned by that person and used in the business of farming,
29 when the building is intended for use by that person after completion.
30 (1925, c. 318, s. 1; 1931, c. 62, s. 1; 1937, c. 429, s. 1; 1949, c. 936; 1953, c.
31 810; 1971, c. 246, s. 1; 1975, c. 279, s. 1; 1981, c. 783, s. 1; 1989, c. 109, s.
32 1; c. 653, s. 1; 1991 (Reg. Sess., 1992), c. 840, s. 1; 2011-376, s. 1.)
33

34 **§ 87-1.1. Exception for licensees under Article 2 or 4.**

35 G.S. 87-1 shall not apply to a licensee under Article 2 or 4 of this Chapter of the General
36 Statutes, G.S. 87-43 shall not apply to a licensee under Article 2 of this Chapter of the General
37 Statutes, and G.S. 87-21(a)(5) shall not apply to a licensee under Article 4 of this Chapter of the
38 General Statutes when the licensee is bidding and contracting directly with the owner of a
39 public building project if: (i) a licensed general contractor performs all work that falls within
40 the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor's rules;
41 and (ii) the total amount of the general contracting work so classified does not exceed a
42 percentage of the total bid price pursuant to rules established by the. Board; and (iii) a licensee
43 with the appropriate license under Article 2 or Article 4 of this Chapter performs all work that
44 falls within the classifications in Article 2 and Article 4 of this Chapter. (2003-231, s. 1;
45 2006-241, s. 2; 2006-259, s. 43; 2006-261, s. 3.)
46

47 **§ 87-1.2. Exception for specified Department of Transportation contractors.**

48 The letting of contracts for the types of projects specified in G.S. 136-28.14 shall not be
49 subject to the licensing requirement of this Article. (2006-261, s. 2.)
50

51 **§ 87-2. Licensing Board; organization.**

1 There is created the State Licensing Board for General Contractors consisting of nine
2 members appointed by the Governor for staggered five-year terms. Five of the members shall
3 be general contractors, one member shall be a registered engineer who practices structural
4 engineering, and three shall be public members. Of the general contractor members, one shall
5 have as the larger part of his business the construction of highways; one shall have as the larger
6 part of his business the construction of public utilities; one shall have as the larger part of his
7 business the construction of buildings; and two shall have as a larger part of their businesses the
8 construction of residences, one of whom shall be the holder of an unlimited general contractor's
9 license. The public members shall have no ties with the construction industry and shall
10 represent the interests of the public at large. Members shall serve until the expiration of their
11 respective terms and until their successors are appointed and qualified. Vacancies occurring
12 during a term shall be filled by appointment of the Governor for the remainder of the unexpired
13 term. The Governor may remove any member of the Board for misconduct, incompetency, or
14 neglect of duty. No Board member shall serve more than two complete consecutive terms.
15 (1925, c. 318, s. 2; 1979, c. 713, s. 1; 1991, c. 124, s. 1.)
16

17 **§ 87-3. Members of Board to take oath.**

18 Each member of the Board shall, before entering upon the discharge of the duties of his
19 office, take and file with the Secretary of State an oath in writing to properly perform the duties
20 of his office as a member of said Board and to uphold the Constitution of North Carolina and
21 the Constitution of the United States. (1925, c. 318, s. 3.)
22

23 **§ 87-4. First meeting of Board; officers; secretary-treasurer and assistants.**

24 The said Board shall, within 30 days after its appointment by the Governor, meet in the City
25 of Raleigh, at a time and place to be designated by the Governor, and organize by electing a
26 chairman, a vice-chairman, and a secretary-treasurer, each to serve for one year. Said Board
27 shall have power to make such bylaws, rules and regulations as it shall deem best, provided the
28 same are not in conflict with the laws of North Carolina. The secretary-treasurer shall give
29 bond in such sum as the Board shall determine, with such security as shall be approved by the
30 Board, said bond to be conditioned for the faithful performance of the duties of his office and
31 for the faithful accounting of all moneys and other property as shall come into his hands. The
32 secretary-treasurer need not be a member of the Board, and the Board is hereby authorized to
33 employ a full-time secretary-treasurer, and such other assistants and make such other
34 expenditures as may be necessary to the proper carrying out of the provisions of this Article.
35 Payment of compensation and reimbursement of expenses of board members shall be governed
36 by G.S. 93B-5. (1925, c. 318, s. 4; 1941, c. 257, s. 4; 1947, c. 611; 1951, c. 453; 1979, c. 713, s.
37 6.)
38

39 **§ 87-5. Seal of Board.**

40 The Board shall adopt a seal for its own use. The seal shall have the words "North Carolina
41 Licensing Board for General Contractors" and the secretary shall have charge, care and custody
42 thereof. (1925, c. 318, s. 5; 1979, c. 713, s. 7.)
43

44 **§ 87-6. Meetings; notice; quorum.**

45 The Board shall meet twice each year, once in April and once in October, for the purpose of
46 transacting such business as may properly come before it. At the April meeting in each year the
47 Board shall elect officers. Special meetings may be held at such times as the Board may
48 provide in the bylaws it shall adopt. Due notice of each meeting and the time and place thereof
49 shall be given to each member in such manner as the bylaws may provide. Five members of the
50 Board shall constitute a quorum. (1925, c. 318, s. 6; 1979, c. 713, s. 8.)
51

1 **§ 87-7. Records of Board; disposition of funds.**

2 The secretary-treasurer shall keep a record of the proceedings of the said Board and shall
3 receive and account for all moneys derived from the operation of this Article. Any funds
4 remaining in the hands of the secretary-treasurer to the credit of the Board after the expenses of
5 the Board for the current year have been paid shall be paid over to the Greater University of
6 North Carolina for the use of the School of Engineering through the North Carolina
7 Engineering Foundation. The Board has the right, however, to retain at least ten percent (10%)
8 of the total expense it incurs for a year's operation to meet any emergency that may arise. As an
9 expense of the Board, said Board is authorized to expend such funds as it deems necessary to
10 provide retirement and disability compensation for its employees. (1925, c. 318, s. 7; 1953, c.
11 805, s. 1; 1959, c. 1184.)
12

13 **§ 87-8. Records; roster of licensed contractors; report to Governor.**

14 The secretary-treasurer shall keep a record of the proceedings of the Board and a register of
15 all applicants for license showing for each the date of application, name, qualifications, place of
16 business, place of residence, and whether license was granted or refused. The books and
17 register of this Board shall be prima facie evidence of all matters recorded therein. A roster
18 showing the names and places of business and of residence of all licensed general contractors
19 shall be prepared by the secretary of the Board during the month of March of each year; the
20 roster shall be printed by the Board out of funds of the Board as provided in G.S. 87-7, with
21 copies being made available to contractors and members of the public, at cost, upon request, or
22 furnished without cost, as directed by the Board. On or before the last day of March of each
23 year the Board shall submit to the Governor a report of its transactions for the preceding year,
24 and shall file with the Secretary of State a copy of the report, together with a complete
25 statement of the receipts and expenditures of the Board, attested by the affidavits of the
26 chairman and the secretary, and a copy of the roster of licensed general contractors. (1925, c.
27 318, s. 8; 1937, c. 429, s. 2; 1985, c. 630, s. 1; 1993, c. 148, s. 1.)
28

29 **§ 87-9. Compliance with Federal Highway Act, etc.; contracts financed by federal road
30 funds; contracts concerning water or waste water systems.**

31 Nothing in this Article shall operate to prevent the Department of Transportation from
32 complying with any act of Congress and any rules and regulations promulgated pursuant
33 thereto for carrying out the provisions of the Federal Highway Act, or shall apply to any
34 person, firm or corporation proposing to submit a bid or enter into contract for any work to be
35 financed in whole or in part with federal aid road funds in such manner as will conflict with any
36 act of Congress or any such rules and regulations promulgated pursuant thereto.

37 Neither shall anything in this Article prevent the State of North Carolina or any of its
38 political subdivisions or their contractors from complying with any act of Congress and any
39 rules and regulations promulgated pursuant thereto for carrying out the provisions of any
40 federal program to assist in the planning, financing, or construction of drinking water or waste
41 water processing, collection, and disposal systems and facilities. (1939, c. 230; 1971, c. 246, s.
42 2; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1989, c. 159.)
43

44 **§ 87-9.1. Ownership of real property; equipment; liability insurance.**

45 (a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and
46 otherwise deal with real property in the same manner as a private person or corporation, subject
47 only to approval of the Governor and the Council of State as to the acquisition, rental,
48 encumbering, leasing, and sale of real property. Collateral pledged by the Board for an
49 encumbrance is limited to the assets, income, and revenues of the Board.

1 (b) The Board may purchase or rent equipment and supplies and purchase liability
2 insurance or other insurance to cover the activities of the Board, its operations, or its
3 employees. (1999-349, s. 1.)
4

5 **§ 87-10. Application for license; examination; certificate; renewal.**

6 (a) Anyone seeking to be licensed as a general contractor in this State shall file an
7 application for an examination on a form provided by the Board, at least 30 days before any
8 regular or special meeting of the Board. The Board may require the applicant to pay the Board
9 or a provider contracted by the Board an examination fee not to exceed one hundred dollars
10 (\$100.00) and pay to the Board a license fee not to exceed one hundred twenty-five dollars
11 (\$125.00) if the application is for an unlimited license, one hundred dollars (\$100.00) if the
12 application is for an intermediate license, or seventy-five dollars (\$75.00) if the application is
13 for a limited license. The fees accompanying any application or examination shall be
14 nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor
15 without restriction as to value of any single project; the holder of an intermediate license shall
16 be entitled to act as general contractor for any single project with a value of up to one million
17 dollars (\$1,000,000); the holder of a limited license shall be entitled to act as general contractor
18 for any single project with a value of up to five hundred thousand dollars (\$500,000); and the
19 license certificate shall be classified in accordance with this section. Before being entitled to an
20 examination an applicant must show to the satisfaction of the Board from the application and
21 proofs furnished that the applicant is possessed of a good character and is otherwise qualified
22 as to competency, ability, integrity, and financial responsibility, and that the applicant has not
23 committed or done any act, which, if committed or done by any licensed contractor would be
24 grounds under the provisions hereinafter set forth for the suspension or revocation of
25 contractor's license, or that the applicant has not committed or done any act involving
26 dishonesty, fraud, or deceit, or that the applicant has never been refused a license as a general
27 contractor nor had such license revoked, either in this State or in another state, for reasons that
28 should preclude the granting of the license applied for, and that the applicant has never been
29 convicted of a felony involving moral turpitude, relating to building or contracting, or
30 involving embezzlement or misappropriation of funds or property entrusted to the applicant:
31 Provided, no applicant shall be refused the right to an examination, except in accordance with
32 the provisions of Chapter 150B of the General Statutes.

33 (b) The Board shall conduct an examination, either oral or written, of all applicants for
34 license to ascertain, for the classification of license for which the applicant has applied: (i) the
35 ability of the applicant to make a practical application of the applicant's knowledge of the
36 profession of contracting; (ii) the qualifications of the applicant in reading plans and
37 specifications, knowledge of relevant matters contained in the North Carolina State Building
38 Code, knowledge of estimating costs, construction, ethics, and other similar matters pertaining
39 to the contracting business; (iii) the knowledge of the applicant as to the responsibilities of a
40 contractor to the public and of the requirements of the laws of the State of North Carolina
41 relating to contractors, construction, and liens; and (iv) the applicant's knowledge of
42 requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of
43 the General Statutes, and the rules adopted pursuant to that Article. If the results of the
44 examination of the applicant shall be satisfactory to the Board, then the Board shall issue to the
45 applicant a certificate to engage as a general contractor in the State of North Carolina, as
46 provided in said certificate, which may be limited into five classifications as follows:

- 47 (1) Building contractor, which shall include private, public, commercial,
48 industrial and residential buildings of all types.
49 (1a) Residential contractor, which shall include any general contractor
50 constructing only residences which are required to conform to the residential

1 building code adopted by the Building Code Council pursuant to G.S.
2 143-138.

3 (2) Highway contractor.

4 (3) Public utilities contractors, which shall include those whose operations are
5 the performance of construction work on the following subclassifications of
6 facilities:

7 a. Water and sewer mains, water service lines, and house and building
8 sewer lines as defined in the North Carolina State Building Code, and
9 water storage tanks, lift stations, pumping stations, and
10 appurtenances to water storage tanks, lift stations, and pumping
11 stations.

12 b. Water and wastewater treatment facilities and appurtenances thereto.

13 c. Electrical power transmission facilities, and primary and secondary
14 distribution facilities ahead of the point of delivery of electric service
15 to the customer.

16 d. Public communication distribution facilities.

17 e. Natural gas and other petroleum products distribution facilities;
18 provided the General Contractors Licensing Board may issue license
19 to a public utilities contractor limited to any of the above
20 subclassifications for which the general contractor qualifies.

21 (4) Specialty contractor, which shall include those whose operations as such are
22 the performance of construction work requiring special skill and involving
23 the use of specialized building trades or crafts, but which shall not include
24 any operations now or hereafter under the jurisdiction, for the issuance of
25 license, by any board or commission pursuant to the laws of the State of
26 North Carolina.

27 (b1) Public utilities contractors constructing house and building sewer lines as provided
28 in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall, at the junction of
29 the public sewer line and the house or building sewer line, install as an extension of the public
30 sewer line a cleanout at or near the property line that terminates at or above the finished grade.
31 Public utilities contractors constructing water service lines as provided in sub-subdivision a. of
32 subdivision (3) of subsection (b) of this section shall terminate the water service lines at a
33 valve, box, or meter at which the facilities from the building may be connected. Public utilities
34 contractors constructing fire service mains for connection to fire sprinkler systems shall
35 terminate those lines at a flange, cap, plug, or valve inside the building one foot above the
36 finished floor. All fire service mains shall comply with the NFPA standards for fire service
37 mains as incorporated into and made applicable by Volume V of the North Carolina Building
38 Code.

39 (c) If an applicant is an individual, examination may be taken by his personal
40 appearance for examination, or by the appearance for examination of one or more of his
41 responsible managing employees, and if a copartnership or corporation, or any other
42 combination or organization, by the examination of one or more of the responsible managing
43 officers or members of the personnel of the applicant, and if the person so examined shall cease
44 to be connected with the applicant, then in such event the license shall remain in full force and
45 effect for a period of 90 days thereafter, and then be canceled, but the applicant shall then be
46 entitled to a reexamination, all pursuant to the rules to be promulgated by the Board: Provided,
47 that the holder of such license shall not bid on or undertake any additional contracts from the
48 time such examined employee shall cease to be connected with the applicant until said
49 applicant's license is reinstated as provided in this Article.

50 (d) Anyone failing to pass this examination may be reexamined at any regular meeting
51 of the Board upon payment of an examination fee. Anyone requesting to take the examination a

1 third or subsequent time shall submit a new application with the appropriate examination and
2 license fees.

3 (e) A certificate of license shall expire on the thirty-first day of December following its
4 issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to
5 the approval of the Board. Renewals may be effected any time during the month of January
6 without reexamination, by the payment of a fee to the secretary of the Board. The fee shall not
7 exceed one hundred twenty-five dollars (\$125.00) for an unlimited license, one hundred dollars
8 (\$100.00) for an intermediate license, and seventy-five dollars (\$75.00) for a limited license.
9 No later than November 30 of each year, the Board shall mail written notice of the amount of
10 the renewal fees for the upcoming year to the last address of record for each general contractor
11 licensed pursuant to this Article. Renewal applications shall be accompanied by evidence of
12 continued financial responsibility satisfactory to the Board. Renewal applications received by
13 the Board after January shall be accompanied by a late payment of ten dollars (\$10.00) for each
14 month or part after January. After a lapse of four years no renewal shall be effected and the
15 applicant shall fulfill all requirements of a new applicant as set forth in this section. (1925, c.
16 318, s. 9; 1931, c. 62, s. 2; 1937, c. 328; c. 429, s. 3; 1941, c. 257, s. 1; 1953, c. 805, s. 2; c.
17 1041, s. 3; 1971, c. 246, s. 3; 1973, c. 1036, ss. 1, 2; c. 1331, s. 3; 1975, c. 279, ss. 2, 3; 1979, c.
18 713, s. 2; 1981, c. 739, ss. 1, 2; 1985, c. 630, ss. 2, 3; 1989, c. 431; 1993, c. 112, ss. 1, 2; c. 553,
19 s. 26; 1999-123, s. 1; 1999-379, s. 7; 1999-427, s. 1; 2001-140, s. 1; 2001-296, s. 1; 2005-381,
20 ss. 1, 2, 3; 2006-241, s. 1; 2007-247, s. 3; 2011-376, s. 5.)

21
22 **§ 87-10.1. Licensing of nonresidents.**

23 (a) Definitions. – The following definitions apply in this section:

- 24 (1) Delinquent income tax debt. – The amount of income tax due as stated in a
25 final notice of assessment issued to a taxpayer by the Secretary of Revenue
26 when the taxpayer no longer has the right to contest the amount.
27 (2) Foreign corporation. – Defined in G.S. 55-1-40.
28 (3) Foreign entity. – A foreign corporation, a foreign limited liability company,
29 or a foreign partnership.
30 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.
31 (5) Foreign partnership. – Either of the following that does not have a
32 permanent place of business in this State:
33 a. A foreign limited partnership as defined in G.S. 59-102.
34 b. A general partnership formed under the laws of a jurisdiction other
35 than this State.

36 (b) Licensing. – The Board shall not issue a certificate of license for a foreign
37 corporation unless the corporation has obtained a certificate of authority from the Secretary of
38 State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a
39 certificate of license for a foreign limited liability company unless the company has obtained a
40 certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of the
41 General Statutes.

42 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue on
43 an annual basis the name, address, and tax identification number of every nonresident
44 individual and foreign entity licensed by the Board. The information shall be provided in the
45 format required by the Secretary of Revenue.

46 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident
47 individual or foreign corporation licensed by the board, a member of any foreign limited
48 liability company licensed by the Board, or a partner in any foreign partnership licensed by the
49 Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of
50 these nonresident individuals and foreign entities and instruct the Board not to renew their
51 certificates of license. The Board shall not renew the certificate of license of such a nonresident

1 individual or foreign entity identified by the Secretary of Revenue unless the Board receives a
2 written statement from the Secretary that the debt either has been paid or is being paid pursuant
3 to an installment agreement. (1998-162, ss. 4, 10.)
4

5 **§ 87-11. Revocation of license; charges of fraud, negligence, incompetency, etc.; hearing**
6 **thereon; reissuance of certificate.**

7 (a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or
8 restrict a certificate of license or to issue a reprimand or take other disciplinary action if a
9 general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining
10 a license, or gross negligence, incompetency, or misconduct in the practice of his or her
11 profession, or willful violation of any provision of this Article. The Board shall also have the
12 power to revoke, suspend, or otherwise restrict the ability of any person to act as a qualifying
13 party for a license to practice general contracting, as provided in G.S. 87-10(c), for any
14 copartnership, corporation or any other organization or combination, if that person committed
15 any act in violation of the provisions of this section and the Board may take disciplinary action
16 against the individual license held by that person.

17 (a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against
18 any general contractor licensed under this Article. The charges shall be in writing and sworn to
19 by the complainant and submitted to the Board. The charges, unless dismissed without hearing
20 by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance
21 with the provisions of Chapter 150B of the General Statutes.

22 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
23 Article, governing the suspension and revocation of licenses.

24 (c) The Board shall establish and maintain a system whereby detailed records are kept
25 regarding complaints against each licensee. This record shall include, for each licensee, the date
26 and nature of each complaint, investigatory action taken by the Board, any findings by the
27 Board, and the disposition of the matter.

28 (d) The Board may reissue a license to any person, firm or corporation whose license
29 has been revoked: Provided, five or more members of the Board vote in favor of such
30 reissuance for reasons the Board may deem sufficient.

31 The Board shall immediately notify the Secretary of State of its findings in the case of the
32 revocation of a license or of the reissuance of a revoked license.

33 A certificate of license to replace any certificate lost, destroyed or mutilated may be issued
34 subject to the rules and regulations of the Board.

35 (e) The Board shall be entitled to recover its reasonable administrative costs associated
36 with the investigation and prosecution of a violation of this Article or rules or regulations of the
37 Board up to a maximum of five thousand dollars (\$5,000) for any licensee or qualifying party
38 found to have committed any of the following:

- 39 (1) Fraud or deceit in obtaining a license.
- 40 (2) Gross negligence, incompetency, or misconduct in the practice of general
41 contracting.
- 42 (3) Willful violation of any provision of this Article. (1925, c. 318, s. 10; 1937,
43 c. 429, s. 4; 1953, c. 1041, s. 4; 1973, c. 1331, s. 3; 1979, c. 713, s. 3; 1987,
44 c. 827, s. 1; 1991, c. 124, s. 2; 1999-427, s. 2; 2005-381, s. 4.)
45

46 **§ 87-12. Certificate evidence of license.**

47 The issuance of a certificate of license or limited license by this Board shall be evidence
48 that the person, firm, or corporation named therein is entitled to all the rights and privileges of a
49 licensed or limited licensed general contractor while said license remains unrevoked or
50 unexpired. A licensed general contractor holding a license which qualifies him for work as
51 described in G.S. 87-10 shall be authorized to perform the said work without any additional

1 occupational license, notwithstanding the provisions of any other occupational licensing statute.
2 A license issued by any other occupational licensing board having jurisdiction over any work
3 described in G.S. 87-10 shall qualify such licensee to perform the work for which the license
4 qualifies him without obtaining the license from the General Contractors Licensing Board.
5 Nothing contained herein shall operate to relieve any general contractor from the necessity of
6 compliance with other provisions of the law requiring building permits and construction in
7 accordance with appropriate provisions of the North Carolina State Building Code. (1925, c.
8 318, s. 11; 1937, c. 429, s. 5; 1975, c. 279, s. 4.)
9

10 **§ 87-13. Unauthorized practice of contracting; impersonating contractor; false**
11 **certificate; giving false evidence to Board; penalties.**

12 Any person, firm, or corporation not being duly authorized who shall contract for or bid
13 upon the construction of any of the projects or works enumerated in G.S. 87-1, without having
14 first complied with the provisions hereof, or who shall attempt to practice general contracting
15 in the State, except as provided for in this Article, and any person, firm, or corporation
16 presenting or attempting to file as his own the licensed certificate of another or who shall give
17 false or forged evidence of any kind to the Board or to any member thereof in maintaining a
18 certificate of license or who falsely shall impersonate another or who shall use an expired or
19 revoked certificate of license, and any architect or engineer who recommends to any project
20 owner the award of a contract to anyone not properly licensed under this Article, shall be
21 deemed guilty of a Class 2 misdemeanor. And the Board may, in its discretion, use its funds to
22 defray the expense, legal or otherwise, in the prosecution of any violations of this Article. No
23 architect or engineer shall be guilty of a violation of this section if his recommendation to
24 award a contract is made in reliance upon current written information received by him from the
25 appropriate Contractor Licensing Board of this State which information erroneously indicates
26 that the contractor being recommended for contract award is properly licensed. (1925, c. 318, s.
27 12; 1931, c. 62, s. 3; 1937, c. 429, s. 6; 1983 (Reg. Sess., 1984), c. 970, s. 2; 1993, c. 539, s.
28 602; 1994, Ex. Sess., c. 24, s. 14(c).)
29

30 **§ 87-13.1. Board may seek injunctive relief.**

31 Whenever the Board determines that any person, firm or corporation has violated or is
32 violating any of the provisions of this Article or rules and regulations of the Board promulgated
33 under this Article, the Board may apply to the superior court for a restraining order and
34 injunction to restrain the violation; and the superior courts have jurisdiction to grant the
35 requested relief, irrespective of whether or not criminal prosecution has been instituted or
36 administrative sanctions imposed by reason of the violation. The court may award the Board its
37 reasonable costs associated with the investigation and prosecution of the violation. (1979, c.
38 713, s. 4; 2003-97, s. 2; 2005-381, s. 5.)
39

40 **§ 87-14. Regulations as to issue of building permits.**

41 (a) Any person, firm, or corporation, upon making application to the building inspector
42 or such other authority of any incorporated city, town, or county in North Carolina charged
43 with the duty of issuing building or other permits for the construction of any building, highway,
44 sewer, grading, or any improvement or structure where the cost thereof is to be thirty thousand
45 dollars (\$30,000) or more, shall, before being entitled to the issuance of a permit, satisfy the
46 following:

- 47 (1) Furnish satisfactory proof to the inspector or authority that the person
48 seeking the permit or another person contracting to superintend or manage
49 the construction is duly licensed under the terms of this Article to carry out
50 or superintend the construction or is exempt from licensure under G.S.
51 87-1(b). If an applicant claims an exemption from licensure pursuant to G.S.

1 87-1(b)(2), the applicant for the building permit shall execute a verified
2 affidavit attesting to the following:

- 3 a. That the person is the owner of the property on which the building is
4 being constructed or, in the case of a firm or corporation, is legally
5 authorized to act on behalf of the firm or corporation.
6 b. That the person will personally superintend and manage all aspects of
7 the construction of the building and that the duty will not be
8 delegated to any other person not duly licensed under the terms of
9 this Article.
10 c. That the person will be personally present for all inspections required
11 by the North Carolina State Building Code, unless the plans for the
12 building were drawn and sealed by an architect licensed pursuant to
13 Chapter 83A of the General Statutes.

14 The building inspector or other authority shall transmit a copy of the
15 affidavit to the Board, who shall verify that the applicant was validly entitled
16 to claim the exemption under G.S. 87-1(b)(2). If the Board determines that
17 the applicant was not entitled to claim the exemption under G.S. 87-1(b)(2),
18 the building permit shall be revoked pursuant to G.S. 153A-362 or G.S.
19 160A-422.

- 20 (2) Furnish proof that the person has in effect Workers' Compensation insurance
21 as required by Chapter 97 of the General Statutes.

22 (b) It shall be unlawful for the building inspector or other authority to issue or allow the
23 issuance of a building permit pursuant to this section unless and until the applicant has
24 furnished evidence that the applicant is either exempt from the provisions of this Article and, if
25 applicable, fully complied with the provisions of subdivision (a)(1) of this section, or is duly
26 licensed under this Article to carry out or superintend the work for which permit has been
27 applied; and further, that the applicant has in effect Workers' Compensation insurance as
28 required by Chapter 97 of the General Statutes. Any building inspector or other authority who
29 is subject to and violates the terms of this section shall be guilty of a Class 3 misdemeanor and
30 subject only to a fine of not more than fifty dollars (\$50.00). (1925, c. 318, s. 13; 1931, c. 62,
31 s. 4; 1937, c. 429, s. 7; 1949, c. 934; 1953, c. 809; 1969, c. 1063, s. 6; 1971, c. 246, s. 4; 1981,
32 c. 783, s. 2; 1989, c. 109, s. 2; 1991 (Reg. Sess., 1992), c. 840, s. 2; 1993, c. 539, s. 603; 1994,
33 Ex. Sess., c. 24, s. 14(c); 2011-376, s. 2.)
34

35 **§ 87-15. Copy of Article included in specifications; bid not considered unless contractor**
36 **licensed.**

37 All architects and engineers preparing plans and specifications for work to be contracted in
38 the State of North Carolina shall include in their invitations to bidders and in their
39 specifications a copy of this Article or such portions thereof as are deemed necessary to convey
40 to the invited bidder, whether he be a resident or nonresident of this State and whether a license
41 has been issued to him or not, the information that it will be necessary for him to show
42 evidence of a license before his bid is considered. (1925, c. 318, s. 14; 1937, c. 429, s. 8; 1941,
43 c. 257, s. 2.)
44

45 **§ 87-15.1. Reciprocity of licensing.**

46 To the extent that other states which provide for the licensing of general contractors provide
47 for similar action, the Board in its discretion may grant licenses of the same or equivalent
48 classification to general contractors licensed by other states, without written examination upon
49 satisfactory proof furnished to the Board that the qualifications of such applicants are equal to
50 the qualifications of holders of similar licenses in North Carolina and upon payment of the
51 required fee. (1971, c. 246, s. 5.)

1
2 **§ 87-15.2. Public awareness program.**

3 The Board shall establish and implement a public awareness program to inform the general
4 public of the purpose and function of the Board. (1979, c. 713, s. 4.)
5

6 **§ 87-15.3. Identity of complaining party confidential.**

7 Once a complaint has been filed with the Board against a licensee or an unlicensed general
8 contractor, the Board may, in its discretion, keep the identity of a complaining party
9 confidential and not a public record within the meaning of Chapter 132 of the General Statutes
10 until a time no later than the receipt of the complaint by the full Board for a disciplinary
11 hearing or injunctive action. (2003-97, s. 1)
12

13 **§ 87-15.4. Builder designations created.**

14 (a) A licensee who successfully completes the educational requirements for accredited
15 builder or accredited master builder, as established by the North Carolina Builders Institute
16 (Institute), shall be designated by the Board as a "North Carolina Certified Accredited
17 Residential Builder" or "North Carolina Certified Accredited Master Residential Builder,"
18 respectively. The Institute shall provide to the Board written certification of those licensees
19 who have successfully completed the requirements for the designations. The certification shall
20 remain in effect as long as: (i) the licensee's license is in effect pursuant to G.S. 87-10; and (ii)
21 the licensee completes at least eight hours of continuing education each calendar year as
22 certified by the Institute.

23 (b) The Board shall approve for designation a licensee who has successfully completed
24 a course of study, deemed by the Board to be equivalent to the educational requirements under
25 subsection (a) of this section, offered by a community college or by another provider, and who
26 completes the requisite number of hours of continuing education required by the Board.

27 (c) The Board may use all powers granted to it under this Article to enforce the
28 provisions of this section and ensure that the designations created by this section are conferred
29 upon and used only by a licensee who complies with the provisions of this section and any
30 rules adopted by the Board. (2007-417, s. 1.)
31

32 Article 1A.

33 Homeowners Recovery Fund.

34 **§ 87-15.5. Definitions.**

35 The following definitions apply in this Article:

- 36 (1) Applicant. – The owner or former owner of a single-family residential
37 dwelling unit who has suffered a reimbursable loss and has filed an
38 application for reimbursement from the Fund.
39 (2) Board. – The State Licensing Board for General Contractors.
40 (3) Dishonest conduct. – Fraud or deceit in either of the following:
41 a. Obtaining a license under Article 1 of Chapter 87 of the General
42 Statutes.
43 b. The practice of general contracting by a general contractor.
44 (4) Fund. – The Homeowners Recovery Fund.
45 (5) General contractor. – A person or other entity who meets any of the
46 following descriptions:
47 a. Is licensed under Article 1 of Chapter 87 of the General Statutes.
48 b. Fraudulently procures any building permit by presenting the license
49 certificate of a general contractor.
50 c. Fraudulently procures any building permit by falsely impersonating a
51 licensed general contractor.

- 1 (6) Reimbursable loss. – A monetary loss that meets all of the following
2 requirements:
3 a. Results from dishonest or incompetent conduct by a general
4 contractor in constructing or altering a single-family residential
5 dwelling unit.
6 b. Is not paid, in whole or in part, by or on behalf of the general
7 contractor whose conduct caused the loss.
8 c. Is not covered by a bond, a surety agreement, or an insurance
9 contract.
10 (7) Single-family residential dwelling unit. – A separately owned residence for
11 use of one or more persons as a housekeeping unit with space for eating,
12 living, and permanent provisions for cooking and sanitation, whether or not
13 attached to other such residences. (1991, c. 547, s. 1.)
14

15 **§ 87-15.6. Homeowners Recovery Fund.**

16 (a) The Homeowners Recovery Fund is established as a special account of the Board.
17 The Board shall administer the Fund. The purpose of the Fund is to reimburse homeowners
18 who have suffered a reimbursable loss in constructing or altering a single-family residential
19 dwelling unit.

20 (b) Whenever a general contractor applies for the issuance of a permit for the
21 construction of any single-family residential dwelling unit or for the alteration of an existing
22 single-family residential dwelling unit, a city or county building inspector shall collect from the
23 general contractor a fee in the amount of ten dollars (\$10.00) for each dwelling unit to be
24 constructed or altered under the permit. The city or county inspector shall forward nine dollars
25 (\$9.00) of each fee collected to the Board on a quarterly basis and the city or county may retain
26 one dollar (\$1.00) of each fee collected. The Board shall deposit the fees received into the
27 Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not
28 apply to the Fund.

29 The Board may suspend collection of this fee for any year upon a determination that the
30 amount in the Fund is sufficient to meet likely disbursements from the Fund for that year. The
31 Board shall notify city and county building inspectors when it suspends collection of the fee.

32 (c) The Board may adopt rules to implement this Article. (1991, c. 547, s. 1; 2003-372,
33 s. 1.)
34

35 **§ 87-15.7. Fund administration.**

36 (a) The Board shall determine the procedure for applying to the Board for
37 reimbursement from the Fund, for processing applications, for granting requests for
38 reimbursement, and for the subrogation or assignment of the rights of any reimbursed
39 applicant. The Board shall submit annually a report to the State Treasurer accounting for all
40 monies credited to and expended from the Fund.

41 (b) The Board may use monies in the Fund only for the following purposes:

- 42 (1) To reimburse an applicant's reimbursable loss after approval by the Board.
43 (2) To purchase insurance to cover reimbursable losses when the Board finds it
44 appropriate to do so.
45 (3) To invest amounts in the Fund that are not currently needed to reimburse
46 losses and maintain adequate reserves in the manner in which State law
47 allows fiduciaries to invest funds.
48 (4) To pay the expenses of the Board to administer the Fund, including
49 employment of counsel to prosecute subrogation claims. (1991, c. 547, s. 1.)
50

51 **§ 87-15.8. Application for reimbursement.**

1 (a) The Board shall prepare a form to be used to apply for reimbursement from the
2 Fund. Only a person whom the Board determines to meet all of the following requirements
3 may be reimbursed from the Fund:

4 (1) Has suffered a reimbursable loss in the construction or alteration of a
5 single-family residential dwelling unit owned or previously owned by that
6 person.

7 (2) Did not, directly or indirectly, obtain the building permit in the person's own
8 name or did use a general contractor.

9 (3) Has exhausted all civil remedies against the general contractor whose
10 conduct caused the loss and, if applicable, the general contractor's estate, and
11 has obtained a judgment against the general contractor that remains
12 unsatisfied. This requirement is waived if the person is prevented from
13 filing suit or obtaining a judgment against the contractor due to the
14 automatic stay provision of section 362 of the U.S. Bankruptcy Code.

15 (4) Has complied with the applicable rules of the Board.

16 (b) The Board shall investigate all applications for reimbursement and may reject or
17 allow part or all of a claim based on the amount of money in the Fund. The Board shall have
18 complete discretion to determine the order, amount, and manner of payment of approved
19 applications. All payments are a matter of privilege and not of right and no person has a right
20 to reimbursement from the Fund as a third party beneficiary or otherwise. No attorney shall be
21 compensated by the Board for prosecuting an application before it. (1991, c. 547, s. 1.)
22

23 **§ 87-15.9. Subrogation for reimbursement made.**

24 The Board is subrogated to an applicant who is reimbursed from the Fund in the amount
25 reimbursed and may bring an action against the general contractor whose conduct caused the
26 reimbursable loss, the general contractor's assets, or the general contractor's estate. The Board
27 may enforce any claims it may have for restitution or otherwise, and may employ and
28 compensate consultants, agents, legal counsel, and others it finds necessary and appropriate to
29 carry out its authority under this section. (1991, c. 547, s. 1.)
30

31 Article 2.

32 Plumbing and Heating Contractors.

33 **§ 87-16. Board of Examiners; appointment; term of office.**

34 There is created the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler
35 Contractors consisting of seven members appointed by the Governor: one member from a
36 school of engineering of the Greater University of North Carolina, one member who is a
37 plumbing or mechanical inspector from a city in North Carolina, one licensed air conditioning
38 contractor, one licensed plumbing contractor, one licensed heating contractor, one licensed fire
39 sprinkler contractor, and one person who has no tie with the construction industry to represent
40 the interests of the public at large. Members serve for terms of seven years, with the term of
41 one member expiring each year. The term of the member initially appointed to fill the position
42 of licensed fire sprinkler contractor shall commence April 25, 1991. No member appointed
43 after June 7, 1979, shall serve more than one complete consecutive term. Vacancies occurring
44 during a term are filled by appointment of the Governor for the remainder of the unexpired
45 term. (1931, c. 52, s. 1; 1939, c. 224, s. 1; 1971, c. 768, s. 1; 1973, c. 476, s. 128; 1979, c. 834,
46 s. 1; 1989 (Reg. Sess., 1990), c. 842, s. 1; c. 978, s. 1.)
47

48 **§ 87-17. Removal, qualifications and compensation of members; allowance for expenses.**

49 The Governor may remove any member of the Board for misconduct, incompetency or
50 neglect of duty. Each member of the Board shall be a resident of this State at the time of his
51 appointment. Each member of the Board shall receive for attending sessions of the Board or of

1 its committees the amount of per diem, and for the time spent in necessary traveling in carrying
2 out the provisions of this Article, and in addition to the per diem compensation, each member
3 shall be reimbursed by the Board from funds in its hands for necessary traveling expenses and
4 for such expenses incurred in carrying out the provisions hereof as shall be approved by a
5 majority of the members of the Board. Payment of compensation and reimbursement of
6 expenses of Board members shall be governed by G.S. 93B-5. (1931, c. 52, s. 2; 1969, c. 445,
7 s. 8; 1979, c. 834, ss. 2, 3.)
8

9 **§ 87-18. Organization meeting; officers; seal; rules; employment of personnel; acquire**
10 **property.**

11 The Board shall, within 30 days after its appointment, meet in the City of Raleigh and
12 organize, and elect a chairman, secretary, and treasurer, each to serve for one year. Thereafter
13 the officers shall be elected annually. The secretary and treasurer shall give bond approved by
14 the Board for the faithful performance of their duties in the sum as the Board may, from time to
15 time, determine. The Board shall have a common seal, shall formulate rules to govern its
16 actions, and is hereby authorized to employ personnel as it may deem necessary to carry out the
17 provisions of this Article. The Board shall have the power to acquire, hold, rent, encumber,
18 alienate, and otherwise deal with real property in the same manner as a private person or
19 corporation, subject only to the approval of the Governor and the Council of State. Collateral
20 pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the
21 Board. (1931, c. 52, s. 3; 1939, c. 224, s. 2; 1953, c. 254, s. 1; 2001-270, s. 1.)
22

23 **§ 87-19. Regular and special meetings; quorum.**

24 The Board after holding its first meeting as hereinbefore provided, shall thereafter hold at
25 least two regular meetings each year. Special meetings may be held at such times and places as
26 the bylaws and/or rules of the Board provide; or as may be required in carrying out the
27 provisions hereof. A quorum of the Board shall consist of not less than four members. (1931, c.
28 52, s. 4; 1989 (Reg. Sess., 1990), c. 842, s. 2.)
29

30 **§ 87-20. Record of proceedings and register of applicants; reports.**

31 The Board shall keep a record of its proceedings and a register of all applicants for
32 examination, showing the date of each application, the name, age and other qualifications,
33 place of business and residence of each applicant. The books and records of the Board shall be
34 prima facie evidence of the correctness of the contents thereof. On or before the first day of
35 March of each year the Board shall submit to the Governor a report of its activities for the
36 preceding year, and file with the Secretary of State a copy of such report, together with a
37 statement of receipts and expenditures of the Board attested by the chairman and secretary.
38 (1931, c. 52, s. 5.)
39

40 **§ 87-21. Definitions; contractors licensed by Board; examination; posting license, etc.**

41 (a) Definitions. – For the purpose of this Article:

- 42 (1) The word "plumbing" is hereby defined to be the system of pipes, fixtures,
43 apparatus and appurtenances, installed upon the premises, or in a building, to
44 supply water thereto and to convey sewage or other waste therefrom.
- 45 (2) The phrase "heating, group number one" shall be deemed and held to be the
46 heating system of a building, which requires the use of high or low pressure
47 steam, vapor or hot water, including all piping, ducts, and mechanical
48 equipment appurtenant thereto, within, adjacent to or connected with a
49 building, for comfort heating.
- 50 (3) The phrase "heating, group number two" means an integral system for
51 heating or cooling a building consisting of an assemblage of interacting

1 components producing conditioned air to raise or lower the temperature, and
2 having a mechanical refrigeration capacity in excess of fifteen tons, and
3 which circulates air. Systems installed in single-family residences are
4 included under heating group number three, regardless of size. Holders of a
5 heating group number three license who have heretofore installed systems
6 classified as heating group number two systems may nevertheless service,
7 replace, or make alterations to those installed systems until June 30, 2004.

8 (4) The phrase "heating, group number three" shall be deemed and held to be a
9 direct heating or cooling system of a building that raises or lowers the
10 temperature of the space within the building for the purpose of comfort in
11 which electric heating elements or products of combustion exchange heat
12 either directly with the building supply air or indirectly through a heat
13 exchanger using an air distribution system of ducts and having a mechanical
14 refrigeration capacity of 15 tons or less. A heating system requiring air
15 distribution ducts and supplied by ground water or utilizing a coil supplied
16 by water from a domestic hot water heater not exceeding 150 degrees
17 Fahrenheit requires either plumbing or heating group number one license to
18 extend piping from valved connections in the domestic hot water system to
19 the heating coil and requires either heating group number one or heating
20 group number three license for installation of coil, duct work, controls,
21 drains and related appurtenances.

22 (5) Any person, firm or corporation, who for a valuable consideration, (i)
23 installs, alters or restores, or offers to install, alter or restore, either
24 plumbing, heating group number one, or heating group number two, or
25 heating group number three, or (ii) lays out, fabricates, installs, alters or
26 restores, or offers to lay out, fabricate, install, alter or restore fire sprinklers,
27 or any combination thereof, as defined in this Article, shall be deemed and
28 held to be engaged in the business of plumbing, heating, or fire sprinkler
29 contracting; provided, however, that nothing herein shall be deemed to
30 restrict the practice of qualified registered professional engineers. Any
31 person who installs a plumbing, heating, or fire sprinkler system on property
32 which at the time of installation was intended for sale or to be used primarily
33 for rental is deemed to be engaged in the business of plumbing, heating, or
34 fire sprinkler contracting without regard to receipt of consideration, unless
35 exempted elsewhere in this Article.

36 (6) The word "contractor" is hereby defined to be a person, firm or corporation
37 engaged in the business of plumbing, heating, or fire sprinkler contracting.

38 (7) The word "heating" shall be deemed and held to mean heating group number
39 one, heating group number two, heating group number three, or any
40 combination thereof.

41 (8) Repealed by Session Laws 1997-298, s. 1.

42 (9) The word "Board" means the State Board of Examiners of Plumbing,
43 Heating, and Fire Sprinkler Contractors.

44 (10) The word "experience" means actual and practical work directly related to
45 the category of plumbing, heating group number one, heating group number
46 two, heating group number three, or fire sprinkler contracting, and includes
47 related work for which a license is not required.

48 (11) The phrase "fire sprinkler" means an automatic or manual sprinkler system
49 designed to protect the interior or exterior of a building or structure from
50 fire, and where the primary extinguishing agent is water. These systems
51 include wet pipe and dry pipe systems, preaction systems, water spray

1 systems, foam water sprinkler systems, foam water spray systems, nonfreeze
2 systems, and circulating closed-loop systems. These systems also include the
3 overhead piping, combination standpipes, inside hose connections, thermal
4 systems used in connection with the sprinklers, tanks, and pumps connected
5 to the sprinklers, and controlling valves and devices for actuating an alarm
6 when the system is in operation. This subsection shall not apply to owners of
7 property who are building or improving farm outbuildings. This subsection
8 shall not include water and standpipe systems having no connection with a
9 fire sprinkler system. Nothing herein shall prevent licensed plumbing
10 contractors, utility contractors, or fire sprinkler contractors from installing
11 underground water supplies for fire sprinkler systems.

12 (b) Classes of Licenses; Eligibility and Examination of Applicant; Necessity for
13 License. –

- 14 (1) In order to protect the public health, comfort and safety, the Board shall
15 establish two classes of licenses: Class I covering all plumbing, heating, and
16 fire sprinkler systems for all structures, and Class II covering plumbing and
17 heating systems in single-family detached residential dwellings.
18 (2) The Board shall establish and issue a fuel piping license for use by persons
19 who do not possess the required Class I or Class II plumbing or heating
20 license, but desire to engage in the contracting or installing of fuel piping
21 extending from an approved fuel source at or near the premises, which
22 piping is used or may be used to supply fuel to any systems, equipment, or
23 appliances located inside the premises.

24 The Board may also establish additional restricted classifications to
25 provide for: (i) the licensing of any person, partnership, firm, or corporation
26 desiring to engage in a specific phase of heating, plumbing, or fire sprinkling
27 contracting; (ii) the licensing of any person, partnership, firm, or corporation
28 desiring to engage in a specific phase of heating, plumbing, or fire sprinkling
29 contracting that is an incidental part of their primary business, which is a
30 lawful business other than heating, plumbing, or fire sprinkling contracting;
31 or (iii) the licensing of persons desiring to engage in contracting and
32 installing fuel piping from an approved fuel source on the premises to a
33 point inside the residence.

- 34 (3) The Board shall prescribe the standard of competence, experience and
35 efficiency to be required of an applicant for license of each class, and shall
36 give an examination designed to ascertain the technical and practical
37 knowledge of the applicant concerning the analysis of plans and
38 specifications, estimating costs, fundamentals of installation and design,
39 codes, fire hazards, and related subjects as these subjects pertain to
40 plumbing, heating, or fire sprinkler systems. The examination for a fire
41 sprinkler contractor's license shall include such materials as would test the
42 competency of the applicant and which may include the minimum
43 requirements of certification for Level III, subfield of Automatic Sprinkler
44 System Layout, National Institute for Certification of Engineering
45 Technologies (NICET). As a result of the examination, the Board shall issue
46 a certificate of license of the appropriate class in plumbing, heating, or fire
47 sprinkler contracting, and a license shall be obtained, in accordance with the
48 provisions of this Article, before any person, firm or corporation shall
49 engage in, or offer to engage in, the business of plumbing, heating, or fire
50 sprinkler contracting, or any combination thereof. The obtaining of a license,
51 as required by this Article, shall not of itself authorize the practice of another

1 profession or trade for which a State qualification license is required. Prior
2 to taking the examination, the applicant may be required by the Board to
3 establish that the applicant is at least 18 years of age and is of good moral
4 character. The Board may require experience as a condition of examination,
5 provided that (i) the experience required may not exceed two years, (ii) that
6 up to one-half the experience may be in the form of academic or technical
7 courses of study, and (iii) that registration is not required at the
8 commencement of the period of experience.

9 (4) Conditions of examination set by the Board shall be uniformly applied to
10 each applicant within each license classification. It is the purpose and intent
11 of this section that the Board shall provide an examination for plumbing,
12 heating group number one, or heating group number two, or heating group
13 number three, or each restricted classification, and may provide an
14 examination for fire sprinkler contracting or may accept a current
15 certification of the National Institute for Certification in Engineering
16 Technologies for Fire Protection Engineering Technician, Level III, subfield
17 of Automatic Sprinkler System Layout.

18 (5) The Board is authorized to issue a certificate of license limited to either
19 plumbing or heating group number one, or heating group number two, or
20 heating group number three, or fire sprinkler contracting, or any combination
21 thereof. The Board is also authorized to issue a certificate of license limited
22 to one or more restricted classifications that are established pursuant to this
23 section.

24 (6) Examinations shall be given at least twice each year, and additional
25 examinations may be given as the Board deems wise and necessary. The
26 examination shall be conducted in two parts to include a business and law
27 portion and a technical portion. Requests for examination applications and
28 information shall be made available online without charge and supplied at no
29 cost to the potential examinee. The Board may offer written examinations or
30 administer examinations by computer within 30 days after approving an
31 application. Applicants shall be permitted to obtain the test score from each
32 part of computerized examinations immediately upon completion of the
33 examination. Upon passing the examination and paying the annual license
34 fee, the applicant shall be issued a license. A person who fails to pass any
35 examination shall not be reexamined until after 90 days from the date the
36 person was last examined. An applicant who fails to pass any examination
37 may take the failed portion within six months of the date approved to take
38 the examination without retaking the portion passed. The Board may require
39 applicants who fail any part of the examination three times to receive
40 additional education before the applicant is allowed to retake the
41 examination or wait one year before retaking any portion of the examination.

42 (c) To Whom Article Applies. – The provisions of this Article shall apply to all
43 persons, firms, or corporations who engage in, or attempt to engage in, the business of
44 plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this
45 Article. The provisions of this Article shall not apply to those who make minor repairs or minor
46 replacements to an already installed system of plumbing, heating or air conditioning, but shall
47 apply to those who make repairs, replacements, or modifications to an already installed fire
48 sprinkler system. Minor repairs or minor replacements within the meaning of this subsection
49 shall include the replacement of parts in an installed system which do not require any change in
50 energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a
51 compressor, coil, contactor, motor, or capacitor.

1 (c1) Exemption. – The provisions of this Article shall not apply to a person who
2 performs the on-site assembly of a factory designed drain line system for a manufactured home,
3 as defined in G.S. 143-143.9(6), if the person (i) is a licensed manufactured home retailer, a
4 licensed manufactured home set-up contractor, or a full-time employee of either, (ii) obtains an
5 inspection by the local inspections department and (iii) performs the assembly according to the
6 State Plumbing Code.

7 (c2) Exemption. – The provisions of this Article shall not apply to electric generating
8 facilities that are subject to G.S. 62-110.1 or that provide power sold at wholesale that is
9 regulated by the Federal Energy Regulatory Commission.

10 (d) Repealed by Session Laws 1979, c. 834, s. 7.

11 (d1) Expired December 31, 1991.

12 (e) Posting License; License Number on Contracts, etc. – The current license issued in
13 accordance with the provisions of this Article shall be posted in the business location of the
14 licensee, and its number shall appear on all proposals or contracts and requests for permits
15 issued by municipalities. The initial qualified licensee on a license is the permanent possessor
16 of the license number under which that license is issued, except that a licensee, or the licensee's
17 legal agent, personal representative, heirs or assigns, may designate in writing to the Board a
18 qualified licensee to whom the Board shall assign the license number upon the payment of a ten
19 dollar (\$10.00) assignment fee. Upon such assignment, the qualified licensee becomes the
20 permanent possessor of the assigned license number. Notwithstanding the foregoing, the
21 license number may be assigned only to a qualified licensee who has been employed by the
22 initial licensee's plumbing and heating company for at least 10 years or is a lineal relative,
23 sibling, first cousin, nephew, niece, daughter-in-law, son-in-law, brother-in-law, or
24 sister-in-law of the initial licensee. Each successive licensee to whom a license number is
25 assigned under this subsection may assign the license number in the same manner as provided
26 in this subsection.

27 (f) Repealed by Session Laws 1971, c. 768, s. 4.

28 (g) The Board may, in its discretion, grant to plumbing, heating, or fire sprinkler
29 contractors licensed by other states license of the same or equivalent classification without
30 written examination upon receipt of satisfactory proof that the qualifications of such applicants
31 are substantially equivalent to the qualifications of holders of similar licenses in North Carolina
32 and upon payment of the usual license fee.

33 (h) Expired December 31, 1993.

34 (i) The provisions of this Article shall not apply to a retailer, as defined in G.S.
35 105-164.3(35), who, in the ordinary course of business, enters into a transaction with a buyer in
36 which the retailer of a water heater sold for installation in a one- or two-family residential
37 dwelling contracts with a licensee under this Article to provide the installation services for the
38 water heater if the retail sales and installation contract with the buyer is signed by the buyer, the
39 retailer, and the licensee and bears the licensee's license number and telephone number. All
40 installation services rendered by the licensee in connection with any such contract must be
41 performed in compliance with all building code, permit, and inspection requirements.

42 (j) The provisions of this Article shall not apply to a person primarily engaged in the
43 retail sale of goods and services who contracts for or arranges financing for the sale and
44 installation of a single-family residential heating or cooling system for which a license to install
45 such system is required under this Article, provided all of the following requirements are met:

- 46 (1) No contract or proposal for sale or installation may be presented to or signed
47 by the buyer unless either (i) the specifications for and design of the system
48 have been first reviewed and approved by an employee of the retail seller
49 who is licensed under this Article or (ii) the specifications for and design of
50 the system have been first reviewed and approved by the person licensed
51 under this Article who will install the system, if the installer is not an

1 employee of the retail seller. This subdivision does not prohibit the retailer
2 from providing a written estimate to a potential buyer so long as no contract
3 or proposal for contract is presented or signed prior to the review and
4 approval required by this subsection.

- 5 (2) The person installing the system is licensed under this Article.
6 (3) The contract for sale and for installation is signed by the buyer, by an
7 authorized representative of the retail seller, and by the licensed contractor
8 and contains the contractor's name, license number, and telephone number
9 and the license number of the person approving the system design
10 specifications.
11 (4) Installation services are performed in compliance with all applicable
12 building codes, manufacturer's installation instructions, and permit and
13 inspection requirements.
14 (5) The retailer provides, in addition to any other warranties it may offer with
15 respect to the system itself, a warranty for a period of at least one year for
16 any defects in installation.

17 (k) The provisions of subsections (i) and (j) of this section shall not apply to a system
18 meeting the definition of subdivision (a)(11) of this section. (1931, c. 52, s. 6; 1939, c. 224, s.
19 3; 1951, c. 953, ss. 1, 2; 1953, c. 254, s. 2; 1967, c. 770, ss. 1-6; 1971, c. 768, ss. 2-4; 1973, c.
20 1204; 1979, c. 834, ss. 4-7; 1981, c. 332, s. 1; 1983, c. 569, ss. 1, 2; 1989, c. 623, s. 1; 1989
21 (Reg. Sess., 1990), c. 842, s. 3; c. 978, s. 2; 1991, c. 355, s. 1; c. 507, s. 1; c. 761, s. 13; 1993, c.
22 78, s. 1; 1997-298, s. 1; 1997-382, ss. 1, 4; 2001-270, s. 2; 2002-159, s. 36(a); 2003-2, s. 1;
23 2003-31, ss. 1-3.1; 2004-203, s. 69; 2005-131, s. 1; 2005-289, s. 3.)
24

25 **§ 87-22. License fee; expiration and renewal; reinstatement.**

26 All persons, firms, or corporations engaged in the business of either plumbing or heating
27 contracting, or both, shall pay an annual license fee not to exceed one hundred fifty dollars
28 (\$150.00). The annual fee for a piping or restricted classification license shall not exceed that
29 for a plumbing or heating license. All persons, firms, or corporations engaged in the business of
30 fire sprinkler contracting shall pay an initial application fee not to exceed seventy-five dollars
31 (\$75.00) and an annual license fee not to exceed three hundred dollars (\$300.00). In the event
32 the Board refuses to license an applicant, the license fee deposited shall be returned by the
33 Board to the applicant. All licenses shall expire on the last day of December in each year
34 following their issuance or renewal. Persons who obtain a license by passing an examination on
35 or after October 1 of any year may receive a license for the remainder of the year by paying
36 one-half of the usual license fee for that classification of license. It shall be the duty of the
37 secretary and treasurer to send by United States mail or e-mail to every licensee registered with
38 the Board, notice to the licensee's last known address reflected on the records of the Board of
39 the amount of fee required for renewal of license, the notice to be mailed at least one month in
40 advance of the expiration of the license. The Board may require payment of all unpaid annual
41 fees before reissuing a license. In the event of failure on the part of any person, firm or
42 corporation to renew the license certificate annually and pay the required fee during the month
43 of January in each year, the Board shall increase the license fee by twenty-five dollars (\$25.00)
44 to cover any additional expense associated with late renewal. The Board shall require
45 reexamination upon failure of a licensee to renew license within three years after expiration.
46 The Board may adopt regulations requiring attendance at programs of continuing education as a
47 condition of license renewal. A licensee employed full time as a local government plumbing,
48 heating, or mechanical inspector and holding qualifications from the Code Officials
49 Qualifications Board may renew the license at a fee not to exceed twenty-five dollars (\$25.00).
50 (1931, c. 52, s. 7; 1939, c. 224, s. 4; 1971, c. 768, s. 5; 1979, c. 834, s. 8; 1981, c. 332, s. 2;

1 1989, c. 623, s. 2; 1989 (Reg. Sess., 1990), c. 842, s. 4; 1997-382, s. 2; 2001-270, s. 3;
2 2005-131, s. 2.)

3
4 **§ 87-22.1. Examination fees; funds disbursed upon warrant of chairman and**
5 **secretary-treasurer.**

6 The Board shall charge a nonrefundable application and examination fee not to exceed one
7 hundred fifty dollars (\$150.00) for each examination or any part of an examination, and the
8 funds collected shall be disbursed upon warrant of the chairman and secretary-treasurer, to
9 partially defray general expenses of the Board. The application and examination fee shall be
10 retained by the Board whether or not the applicant is granted a license. Until changed by the
11 Board pursuant to rules adopted by the Board, the fee for each examination or any part taken on
12 a particular day shall be one hundred dollars (\$100.00). (1959, c. 865, s. 2; 1989, c. 623, s. 3;
13 2001-270, s. 4; 2005-131, s. 3.)

14
15 **§ 87-22.2. Licensing of nonresidents.**

16 (a) Definitions. – The following definitions apply in this section:

- 17 (1) Delinquent income tax debt. – The amount of income tax due as stated in a
18 final notice of assessment issued to a taxpayer by the Secretary of Revenue
19 when the taxpayer no longer has the right to contest the amount.
20 (2) Foreign corporation. – Defined in G.S. 55-1-40.
21 (3) Foreign entity. – A foreign corporation, a foreign limited liability company,
22 or a foreign partnership.
23 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.
24 (5) Foreign partnership. – Either of the following that does not have a
25 permanent place of business in this State:
26 a. A foreign limited partnership as defined in G.S. 59-102.
27 b. A general partnership formed under the laws of a jurisdiction other
28 than this State.

29 (b) Licensing. – The Board shall not issue a license for a foreign corporation unless the
30 corporation has obtained a certificate of authority from the Secretary of State pursuant to
31 Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a license for a
32 foreign limited liability company unless the company has obtained a certificate of authority
33 from the Secretary of State pursuant to Article 7 of Chapter 57C of the General Statutes.

34 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue on
35 an annual basis the name, address, and tax identification number of every nonresident
36 individual and foreign entity licensed by the Board. The information shall be provided in the
37 format required by the Secretary of Revenue.

38 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident
39 individual or foreign corporation licensed by the Board, a member of any foreign limited
40 liability company licensed by the Board, or a partner in any foreign partnership licensed by the
41 Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of
42 these nonresident individuals and foreign entities and instruct the Board not to renew their
43 licenses. The Board shall not renew the license of such a nonresident individual or foreign
44 entity identified by the Secretary of Revenue unless the Board receives a written statement
45 from the Secretary that the debt either has been paid or is being paid pursuant to an installment
46 agreement. (1998-162, ss. 5, 11.)

47
48 **§ 87-23. Revocation or suspension of license for cause.**

49 (a) The Board shall have power to revoke or suspend the license of or order the
50 reprimand or probation of any plumbing, heating, or fire sprinkler contractor, or any
51 combination thereof, who is guilty of any fraud or deceit in obtaining or renewing a license, or

1 who fails to comply with any provision or requirement of this Article, or the rules adopted by
2 the Board, or for gross negligence, incompetency, or misconduct, in the practice of or in
3 carrying on the business of a plumbing, heating, or fire sprinkler contractor, or any combination
4 thereof, as defined in this Article. Any person may prefer charges of such fraud, deceit, gross
5 negligence, incompetency, misconduct, or failure to comply with any provision or requirement
6 of this Article, or the rules of the Board, against any plumbing, heating, or fire sprinkler
7 contractor, or any combination thereof, who is licensed under the provisions of this Article. All
8 of the charges shall be in writing and investigated by the Board. Any proceedings on the
9 charges shall be carried out by the Board in accordance with the provisions of Chapter 150B of
10 the General Statutes.

11 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
12 Chapter, governing the suspension and revocation of licenses.

13 (c) The Board shall establish and maintain a system whereby detailed records are kept
14 regarding complaints against each licensee. (1931, c. 52, s. 8; 1939, c. 224, s. 5; 1953, c. 1041,
15 s. 5; 1973, c. 1331, s. 3; 1979, c. 834, s. 9; 1987, c. 827, s. 1; 1989 (Reg. Sess., 1990), c. 842, s.
16 5; 1997-382, s. 3.)

17
18 **§ 87-24. Reissuance of revoked licenses; replacing lost or destroyed license.**

19 The Board may in its discretion reissue license to any person, firm or corporation whose
20 license may have been revoked: Provided, four or more members of the Board vote in favor of
21 such reissuance for reasons deemed sufficient by the Board. A new certificate of registration to
22 replace any license which may be lost or destroyed may be issued subject to the rules and
23 regulations of the Board. (1931, c. 52, s. 9; 1989 (Reg. Sess., 1990), c. 842, s. 6.)

24
25 **§ 87-25. Violations made misdemeanor; employees of licensees excepted.**

26 Any person, firm or corporation who shall engage in or offer to engage in, or carry on the
27 business of plumbing, heating, or fire sprinkler contracting, or any combination thereof, as
28 defined in G.S. 87-21, without first having been licensed to engage in such business, or
29 businesses, as required by the provisions of this Article; or any person, firm or corporation
30 holding a limited plumbing or heating license under the provisions of this Article who shall
31 practice or offer to practice or carry on any type of plumbing or heating contracting not
32 authorized by said limited license; or any person, firm or corporation who shall give false or
33 forged evidence of any kind to the Board, or any member thereof, in obtaining a license, or who
34 shall falsely impersonate any other practitioner of like or different name, or who shall use an
35 expired or revoked license, or who shall violate any of the provisions of this Article, shall be
36 guilty of a Class 2 misdemeanor. An employee in the course of his work as a bona fide
37 employee of a licensee of the Board shall not be construed to have engaged in the business of
38 plumbing, heating, or fire sprinkler contracting, as the case may be. (1931, c. 52, s. 10; 1939, c.
39 224, s. 6; 1989, c. 623, s. 4; 1989 (Reg. Sess., 1990), c. 842, s. 7; 1993, c. 539, s. 604; 1994,
40 Ex. Sess., c. 24, s. 14(c).)

41
42 **§ 87-25.1. Board may seek injunctive relief.**

43 Whenever it appears to the Board that any person, firm or corporation is violating any of
44 the provisions of this Article or of the rules and regulations of the Board promulgated under
45 this Article, the Board may apply to the superior court for a restraining order and injunction to
46 restrain the violation; and the superior courts have jurisdiction to grant the requested relief,
47 irrespective of whether or not criminal prosecution has been instituted or administrative
48 sanctions imposed by reason of the violation. The venue for actions brought under this
49 subsection shall be the superior court of any county in which such acts are alleged to have been
50 committed or in the county where the defendants in such action reside. (1979, c. 834, s. 11.)

1 **§ 87-26. Corporations; partnerships; persons doing business under trade name.**

2 (a) A license may be issued in the name of a corporation, provided, one or more
3 officers, or full time employee or employees, or both, empowered to act for the corporation, are
4 licensed in accordance with the provisions of this Article; and provided such officers or
5 employee or employees shall execute contracts to the extent of their license qualifications in the
6 name of the said corporation and exercise general supervision over the work done thereunder.

7 (b) A license may be issued in the name of a partnership provided one or more general
8 partners, or full time employee or employees empowered to act for the partnership, are licensed
9 in accordance with the provisions of this Article, and provided such general partners or
10 employee or employees shall execute contracts to the extent of their license qualifications in the
11 name of the said partnership, and exercise general supervision over the work done thereunder.

12 (c) A license may be issued in an assumed or designated trade name, provided the
13 owner of the business conducted thereunder, or full time employee or employees empowered to
14 act for the owner, are licensed in accordance with the provisions of this Article; and such owner
15 or employee or employees shall execute contracts to the extent of their license qualifications, in
16 the said trade name, and exercise general supervision over the work done thereunder.

17 (d) A certificate of license may be issued in accordance with the provisions of this
18 Article upon payment of the annual license fee by such corporation, partnership, or owner of
19 the business conducted under an assumed or designated trade name, as the case may be, and the
20 names and qualifications of individual licensee or licensees connected therewith shall be
21 indicated on the aforesaid license.

22 (e) It shall be necessary that persons licensed in accordance with the provisions of this
23 section shall exercise general supervision over contracts to completion. (1931, c. 52, s. 12;
24 1939, c. 224, s. 8; 1957, c. 815; 1967, c. 770, s. 7.)
25

26 **§ 87-27. License fees payable in advance; application of.**

27 All license fees shall be paid in advance to the secretary and treasurer of the Board and by
28 him held as a fund for the use of the Board. The compensation and expenses of the members of
29 the Board as herein provided, the salaries of its employees, the costs of continuing educational
30 programs for licensees and applicants, and all expenses incurred in the discharge of its duties
31 under this Article shall be paid out of such fund, upon the warrant of the chairman and
32 secretary and treasurer. (1931, c. 52, s. 13; 1933, c. 57; 1939, c. 224, s. 9; 1953, c. 254, s. 3;
33 1959, c. 865, s. 1; 1979, c. 834, s. 10.)
34

35 **§ 87-27.1. Public awareness program.**

36 The Board shall establish and implement a public awareness program to inform the general
37 public of the purpose and function of the Board. (1979, c. 834, s. 11.)
38

39 Article 3.

40 Tile Contractors.

41 **§§ 87-28 through 87-38: Repealed by Session Laws 1977, c. 143.**

42 Article 4.

43 Electrical Contractors.

44 **§ 87-39. Board of Examiners; appointment; terms; chairman; meetings; quorum;**
45 **principal office; compensation; oath.**

46 (a) The State Board of Examiners of Electrical Contractors shall continue as the State
47 agency responsible for the licensing of persons engaging in electrical contracting within this
48 State, and shall consist of one member from the North Carolina Department of Insurance to be
49 designated by the Commissioner of Insurance; one member who has satisfied the requirements
50 for an unlimited license as defined in G.S. 87-43.3 and who is a representative of the North
51

1 Carolina Association of Electrical Contractors to be designated by the governing body of that
2 organization; and five members to be appointed by the Governor: one from the faculty of The
3 Greater University of North Carolina who teaches or does research in the field of electrical
4 engineering, one who is serving as a chief electrical inspector of a municipality or county in
5 North Carolina, one who has satisfied the requirements for an unlimited license as defined in
6 G.S. 87-43.3 and who is a representative of the Carolinas Electrical Contractors Association
7 operating a sole proprietorship, partnership or corporation located in North Carolina which is
8 actively engaged in the business of electrical contracting, and two who have no ties with the
9 construction industry and who represent the interest of the public at large.

10 (b) Members of the Board shall serve staggered seven-year terms. Each member shall
11 serve until his or her successor is designated or appointed, and is duly qualified. Vacancies
12 occurring during a term shall be filled for the remainder of that term by the authority that
13 designated or appointed the departing member.

14 (c) Members of the Board shall not serve consecutive, complete terms. For purposes of
15 this subsection, only a term of less than seven years that results from the filling of a vacancy is
16 an incomplete term; a term of less than seven years that results from the successor's late
17 designation or appointment is not an incomplete term.

18 (d) All members shall be residents of North Carolina during their tenure on the Board.
19 Any member of the Board may be removed by the authority that designated or appointed that
20 member for misconduct, incompetency, or neglect of duty.

21 (e) The Board shall hold regular meetings quarterly and may hold meetings on call of
22 the chair. The chair shall be required to call a special meeting upon written request by two
23 members of the Board. At its regular first quarter meeting, the Board shall elect from its
24 membership a chair and a vice-chair, each to serve for one year. Four members of the Board
25 shall constitute a quorum. The principal office of the Board shall be at such place as shall be
26 designated by a majority of the members thereof. Payment of compensation and reimbursement
27 of expenses of Board members shall be governed by G.S. 93B-5.

28 (f) Before entering upon the performance of his or her duties hereunder, each member
29 of the Board shall take and file with the Secretary of State an oath in writing to properly
30 perform the duties of his or her office as a member of the Board, and to uphold the Constitution
31 of North Carolina and the Constitution of the United States. (1937, c. 87, s. 1; 1969, c. 669, s.
32 1; 1979, c. 904, ss. 1-3; 1989, c. 709, s. 1; 1995, c. 114, s. 1.)
33

34 **§ 87-40. Secretary-treasurer.**

35 At its regular first quarter meeting, the Board shall appoint a secretary-treasurer to serve for
36 one year. The secretary-treasurer need not be a member of the Board, and the Board is
37 authorized to employ a full-time secretary-treasurer and such other assistants and to make such
38 other expenditures as may be necessary to the proper performance of the duties of the Board
39 under this Article. The compensation and the duties of the secretary-treasurer shall be fixed by
40 the Board, and the secretary-treasurer shall give bond in such sum and form as the Board shall
41 require for the faithful performance of duty. The secretary-treasurer shall keep a record of the
42 proceedings of said Board and shall receive and account for all moneys derived from the
43 operations of the Board under this Article. (1937, c. 87, ss. 2, 3; 1969, c. 669, s. 1; 1995, c. 114,
44 s. 2.)
45

46 **§ 87-41. Seal of Board.**

47 The Board shall adopt a seal for its own use, and the secretary-treasurer shall have charge
48 and custody thereof. The seal shall have inscribed thereon the words "Board of Examiners of
49 Electrical Contractors, State of North Carolina." (1937, c. 87, s. 3; 1969, c. 669, s. 1.)
50

51 **§ 87-41.1. Definitions.**

1 As used in this Article, unless the context requires otherwise:

- 2 (1) A "qualified individual" is an individual who is qualified in a specific license
3 classification as a result of having taken and passed the qualifying
4 examination required by this Article for such a classification and who has
5 been certified as such by the Board pursuant to G.S. 87-42.
- 6 (2) A "listed qualified individual" is a qualified individual whose name is listed
7 on a license issued by the Board. A listed qualified individual has the
8 specific duty and authority to supervise and direct electrical contracting done
9 by or in the name of a licensee of the Board on whose license the qualified
10 individual is so listed.
- 11 (3) A licensee of the Board is a person listed pursuant to subsection (2), or a
12 partnership, firm or corporation that regularly employs at least one listed
13 qualified individual and which has been issued a license by the Board.
14 (1989, c. 709, s. 2.)
15

16 **§ 87-42. Duties and powers of Board.**

17 In order to protect the life, health and property of the public, the State Board of Examiners
18 of Electrical Contractors shall provide for the written examination of all applicants for
19 certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all
20 applications for certification as a qualified individual and all applications for licenses to be
21 issued under this Article, shall examine all applicants to determine that each has met the
22 requirements for certification and shall discharge all duties enumerated in this Article.
23 Applicants for certification as a qualified individual must be at least 18 years of age and shall
24 be required to demonstrate to the satisfaction of the Board their good character and adequate
25 technical and practical knowledge concerning the safe and proper installation of electrical work
26 and equipment. The examination to be given for this purpose shall include, but not be limited
27 to, the appropriate provisions of the National Electrical Code as incorporated in the North
28 Carolina State Building Code, the analysis of electrical plans and specifications, estimating of
29 electrical installations, and the fundamentals of the installation of electrical work and
30 equipment. Certification of qualified individuals shall be issued in the same classifications as
31 provided in this Article for license classifications. The Board shall prescribe the standards of
32 knowledge, experience and proficiency to be required of qualified individuals, which may vary
33 for the various license classifications. The Board shall issue certifications and licenses to all
34 applicants meeting the requirements of this Article and of the Board upon the receipt of the fees
35 prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary
36 to the performance of its duties and for the effective implementation of the provisions of this
37 Article. The Board shall have the power to administer oaths and issue subpoenas requiring the
38 attendance of persons and the production of papers and records before the Board in any
39 hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the
40 sheriff or other appropriate official of any county of this State shall serve all notices,
41 subpoenas, and other papers given to them by the Chairman for service in the same manner as
42 process issued by any court of record. Any person who neglects or refuses to obey a subpoena
43 issued by the Board shall be guilty of a Class 1 misdemeanor. The Board shall have the power
44 to acquire, rent, encumber, alienate, and otherwise deal with real property in the same manner
45 as a private person or corporation, subject only to approval of the Governor and the Council of
46 State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and
47 revenues of the Board. The Board shall keep minutes of all its proceedings and shall keep an
48 accurate record of receipts and disbursements which shall be audited at the close of each fiscal
49 year by a certified public accountant, and the audit report shall be filed with the State of North
50 Carolina in accordance with Chapter 93B of the General Statutes. (1937, c. 87, s. 4; 1969, c.

1 669, s. 1; 1989, c. 709, s. 3; 1993, c. 539, s. 605; 1994, Ex. Sess., c. 24, s. 14(c); 2001-159, s.
2 1.)

3
4 **§ 87-43. Electrical contracting defined; licenses.**

5 Electrical contracting shall be defined as engaging or offering to engage in the business of
6 installing, maintaining, altering or repairing any electric work, wiring, devices, appliances or
7 equipment. No person, partnership, firm or corporation shall engage, or offer to engage, in the
8 business of electrical contracting within the State of North Carolina without having received a
9 license in the applicable classification described in G.S. 87-43.3 from the State Board of
10 Examiners of Electrical Contractors in compliance with the provisions of this Article,
11 regardless of whether the offer was made or the work was performed by a qualified individual
12 as defined in G.S. 87-41.1. In each separate place of business operated by an electrical
13 contractor at least one listed qualified individual shall be regularly on active duty and shall
14 have the specific duty and authority to supervise and direct all electrical wiring or electrical
15 installation work done or made by such separate place of business. Every person, partnership,
16 firm or corporation engaging in the business of electrical contracting shall display a current
17 certificate of license in his principal place of business and in each branch place of business
18 which he operates. Licenses issued hereunder shall be signed by the chairman and the
19 secretary-treasurer of the Board, under the seal of the Board. A registry of all licenses issued to
20 electrical contractors shall be kept by the secretary-treasurer of the Board, and said registry
21 shall be open for public inspection during ordinary business hours. (1937, c. 87, s. 5; 1951, c.
22 650, ss. 1-2 1/2; 1953, c. 595; 1961, c. 1165; 1969, c. 669, s. 1; 1989, c. 709, s. 4.)

23
24 **§ 87-43.1. Exceptions.**

25 The provisions of this Article shall not apply:

- 26 (1) To the installation, construction or maintenance of facilities for providing
27 electric service to the public ahead of the point of delivery of electric service
28 to the customer;
- 29 (2) To the installation, construction, maintenance, or repair of telephone,
30 telegraph, or signal systems, by public utilities, or their corporate affiliates,
31 when said work pertains to the services furnished by said public utilities;
- 32 (3) To any person in the course of his work as a bona fide employee of a
33 licensee of this Board;
- 34 (4) To the installation, construction or maintenance of electrical equipment and
35 wiring for temporary use by contractors in connection with the work of
36 construction;
- 37 (5) To the installation, construction, maintenance or repair of electrical wiring,
38 devices, appliances or equipment by persons, firms or corporations, upon
39 their own property when such property is not intended at the time for rent,
40 lease, sale or gift, who regularly employ one or more electricians or
41 mechanics for the purpose of installing, maintaining, altering or repairing of
42 electrical wiring, devices or equipment used for the conducting of the
43 business of said persons, firms or corporations;
- 44 (5a) To any person who is himself and for himself installing, maintaining,
45 altering or repairing electric work, wiring, devices, appliances or equipment
46 upon his own property when such property is not intended at the time for
47 rent, lease, or sale;
- 48 (6) To the installation, construction, maintenance or repair of electrical wiring,
49 devices, appliances or equipment by State institutions and private
50 educational institutions which maintain a private electrical department;

- 1 (7) To the replacement of lamps and fuses and to the installation and servicing
2 of cord-connected appliances and equipment connected by means of
3 attachment plug-in devices to suitable receptacles which have been
4 permanently installed or to the servicing of appliances connected to a
5 permanently installed junction box. This exception does not apply to
6 permanently installed receptacles or to the installation of the junction box.
7 (1937, c. 87, s. 5; 1951, c. 650, ss. 1-2 1/2; 1953, c. 595; 1961, c. 1165;
8 1969, c. 669, s. 1; 1979, c. 904, ss. 4-7.)
9

10 **§ 87-43.2. Issuance of license.**

11 (a) A person, partnership, firm, or corporation shall be eligible to be licensed as an
12 electrical contractor and to have such license renewed, subject to the provisions of this Article,
13 provided:

- 14 (1) At least one listed qualified individual shall be regularly employed by the
15 applicant at each separate place of business to have the specific duty and
16 authority to supervise and direct electrical contracting done by or in the
17 name of the licensee;
- 18 (2) An application is filed with the Board which contains a statement of
19 ownership, states the names and official positions of all employees who are
20 listed qualified individuals and provides such other information as the Board
21 may reasonably require;
- 22 (3) The applicant, through an authorized officer or owner, shall agree in writing
23 to report to the Board within five days any additions to or loss of the
24 employment of listed qualified individuals; and
- 25 (4) The applicant furnishes, upon the initial application for a license, a bonding
26 ability statement completed by a bonding company licensed to do business
27 in North Carolina, verifying the applicant's ability to furnish performance
28 bonds for electrical contracting projects having a value in excess of the
29 project value limit for a limited license established pursuant to G.S. 87-43.3
30 for the intermediate license classification and in excess of the project value
31 limit for an intermediate license established pursuant to G.S. 87-43.3 for the
32 unlimited license classification. In lieu of furnishing the bonding ability
33 statement, the applicant may submit for evaluation and specific approval of
34 the Board other information certifying the adequacy of the applicant's
35 financial ability to engage in projects of the license classification applied for.
36 The bonding ability statement or other financial information must be
37 submitted in the same name as the license to be issued. If the firm for which
38 a license application is filed is owned by a sole proprietor, the bonding
39 ability statement or other financial information may be furnished in either
40 the firm name or the name of the proprietor. However, if the application is
41 submitted in the name of a sole proprietor, the applicant shall submit
42 information verifying that the person in whose name the application is made
43 is in fact the sole proprietor of the firm.
- 44 (5) Repealed by Session Laws 1989, c. 709, s. 5.

45 (b) A license shall indicate the names and classifications of all listed qualified
46 individuals employed by the applicant. A license shall be cancelled if at any time no listed
47 qualified individual is regularly employed by the applicant; provided, that work begun prior to
48 such cancellation may be completed under such conditions as the Board shall direct; and
49 provided further that no work for which a license is required under this Article may be bid for,
50 contracted for or initiated subsequent to such cancellation until said license is reinstated by the

1 Board. (1937, c. 87, s. 5; 1951, c. 650, ss. 1-2½; 1953, c. 595; 1961, c. 1165; 1969, c. 669, s. 1;
2 1989, c. 709, s. 5; 1995, c. 509, s. 135.2(e); 2007-247, s. 2.)

3
4 **§ 87-43.3. Classification of licenses.**

5 An electrical contracting license shall be issued in one of the following classifications:
6 Limited, under which a licensee shall be permitted to engage in a single electrical contracting
7 project of a value, as established by the Board, not in excess of one hundred thousand dollars
8 (\$100,000) and on which the equipment or installation in the contract is rated at not more than
9 600 volts; Intermediate, under which a licensee shall be permitted to engage in a single
10 electrical contracting project of a value, as established by the Board, not in excess of two
11 hundred thousand dollars (\$200,000); Unlimited, under which a licensee shall be permitted to
12 engage in any electrical contracting project regardless of value; and such other special
13 Restricted classifications as the Board may establish from time to time to provide, (i) for the
14 licensing of persons, partnerships, firms or corporations wishing to engage in special restricted
15 electrical contracting, under which license a licensee shall be permitted to engage only in a
16 specific phase of electrical contracting of a special, limited nature, and (ii) for the licensing of
17 persons, partnerships, firms or corporations wishing to engage in electrical contracting work as
18 an incidental part of their primary business, which is a lawful business other than electrical
19 contracting, under which license a licensee shall be permitted to engage only in a specific phase
20 of electrical contracting of a special, limited nature directly in connection with said primary
21 business. The Board may establish appropriate standards for each classification, such standards
22 not to be inconsistent with the provisions of G.S. 87-42. The Board may, by rule, modify the
23 project value limitations up to the maximum amounts set forth in this section for limited and
24 intermediate licenses no more than once every three years based upon an increase or decrease
25 in the project cost index for electrical projects in this State. (1969, c. 669, s. 1; 1973, c. 1228, s.
26 1; 1975, c. 29; 1989, c. 709, s. 6; 1995, c. 114, s. 6; 2007-247, s. 1.)

27
28 **§ 87-43.4. Residential dwelling license.**

29 There is hereby created a separate license for electrical contractors which shall permit an
30 electrical contractor to engage in electrical contracting projects pertaining to single-family
31 detached residential dwellings. The value of a single project pertaining to a single-family
32 detached residential dwelling shall not be in excess of the maximum value, established in G.S.
33 87-43.3, of a single project engaged in by a licensee with a license classified as limited. The
34 Board shall establish appropriate standards for this new license. The standards of knowledge,
35 experience and proficiency shall be those appropriate for that license. (1973, c. 1343; 1995, c.
36 114, s. 3.)

37
38 **§ 87-44. Fees; license term.**

39 The Board shall collect a fee from each applicant before granting or renewing a license
40 under the provisions of this Article; the annual license fee for the limited classification shall not
41 exceed one hundred dollars (\$100.00) for each principal and each branch place of business; the
42 annual license fee for the intermediate classification shall not exceed one hundred fifty dollars
43 (\$150.00) for each principal and each branch place of business; the annual license fee for the
44 unlimited classification shall not exceed two hundred dollars (\$200.00) for each principal and
45 each branch place of business; and the annual license fee for the special restricted
46 classifications and for the single-family detached residential dwelling license shall not exceed
47 one hundred dollars (\$100.00) for each principal and each branch place of business.

48 The Board shall establish a system for the renewal of licenses with varying expiration dates.
49 However, all licenses issued by the Board shall expire one year after the date of issuance.
50 Licenses shall be renewed by the Board, subject to G.S. 87-44.1 and G.S. 87-47, after receipt
51 and evaluation of a renewal application from a licensee and the payment of the required fee.

1 The application shall be upon a form provided by the Board and shall require such information
2 as the Board may prescribe. Renewal applications and fees shall be due 30 days prior to the
3 license expiration date.

4 Upon failure to renew by the expiration date established by the Board, the license shall be
5 automatically revoked. This license may be reinstated by the Board, subject to G.S. 87-44.1 and
6 G.S. 87-47, upon payment of the license fee, an administrative fee of twenty-five dollars
7 (\$25.00), and all fees for the lapsed period during which the person, partnership, firm or
8 corporation engaged in electrical contracting, and, further, upon the satisfaction of such
9 experience requirements during the lapse as the Board may prescribe by rule.

10 The Board may collect fees from applicants for examinations in an amount not to exceed
11 one hundred twenty-five dollars (\$125.00), except the fee for a specially arranged examination
12 shall not exceed two hundred dollars (\$200.00). In addition, the Board may collect an
13 examination review fee, not to exceed twenty-five dollars (\$25.00), from failed examinees who
14 apply for a supervised review of their failed examinations. (1937, c. 87, ss. 6, 7, 10; 1953, c.
15 1041, s. 7; 1969, c. 669, s. 1; 1973, c. 1228, s. 2; 1979, c. 904, ss. 8-10; 1985, c. 317; 1989, c.
16 709, s. 7; 2001-159, s. 2.)
17

18 **§ 87-44.1. Continuing education courses required.**

19 Beginning July 1, 1991, the Board may require as prerequisite to the annual renewal of a
20 license that every listed qualified individual complete continuing education courses in subjects
21 relating to electrical contracting to assure the safe and proper installation of electrical work and
22 equipment in order to protect the life, health, and property of the public. The listed qualified
23 individual shall complete, during the 12 months immediately preceding license renewal, a
24 specific number of hours of continuing education courses approved by the Board prior to
25 enrollment. The Board shall not require more than 10 hours of continuing education courses
26 per 12 months and such continuing education courses shall include those taught at a community
27 college as approved by the Board. The listed qualified individual may accumulate and carry
28 forward not more than two additional years of the annual continuing education requirement.
29 Attendance at any course or courses of continuing education shall be certified to the Board on a
30 form provided by the Board and shall be submitted at the time the licensee makes application to
31 the Board for its license renewal and payment of its license renewal fee. This continuing
32 education requirement may be waived by the Board in cases of certified illness or undue
33 hardship as provided for in the Rules of the Board. (1989, c. 709, s. 8.)
34

35 **§ 87-44.2. Licensing of nonresidents.**

36 (a) Definitions. – The following definitions apply in this section:

- 37 (1) Delinquent income tax debt. – The amount of income tax due as stated in a
38 final notice of assessment issued to a taxpayer by the Secretary of Revenue
39 when the taxpayer no longer has the right to contest the amount.
- 40 (2) Foreign corporation. – Defined in G.S. 55-1-40.
- 41 (3) Foreign entity. – A foreign corporation, a foreign limited liability company,
42 or a foreign partnership.
- 43 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.
- 44 (5) Foreign partnership. – Either of the following that does not have a
45 permanent place of business in this State:
 - 46 a. A foreign limited partnership as defined in G.S. 59-102.
 - 47 b. A general partnership formed under the laws of a jurisdiction other
48 than this State.

49 (b) Licensing. – The Board shall not issue a license for a foreign corporation unless the
50 corporation has obtained a certificate of authority from the Secretary of State pursuant to
51 Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a license for a

1 foreign limited liability company unless the company has obtained a certificate of authority
2 from the Secretary of State pursuant to Article 7 of Chapter 57C of the General Statutes.

3 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue on
4 an annual basis the name, address, and tax identification number of every nonresident
5 individual and every foreign entity licensed by the Board. The information shall be provided in
6 the format required by the Secretary of Revenue.

7 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident
8 individual or foreign corporation licensed by the Board, a member of any foreign limited
9 liability company licensed by the Board, or a partner in any foreign partnership licensed by the
10 Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of
11 these nonresident individuals and foreign entities and instruct the Board not to renew their
12 licenses. The Board shall not renew the license of such a nonresident individual or foreign
13 entity identified by the Secretary of Revenue unless the Board receives a written statement
14 from the Secretary that the debt either has been paid or is being paid pursuant to an installment
15 agreement. (1998-162, ss. 6, 12.)
16

17 **§ 87-45. Funds.**

18 The fees collected for examinations and licenses under this Article shall be used for the
19 expenses of the State Board of Examiners of Electrical Contractors in carrying out the
20 provisions of this Article. No expenses of the Board or compensation of any member or
21 employee of the Board shall be payable out of the treasury of the State of North Carolina; and
22 neither the Board nor any member or employee thereof shall have any power or authority to
23 make or incur any expense, debt or other financial obligation binding upon the State of North
24 Carolina. Any funds remaining in the hands of the secretary-treasurer to the credit of the Board
25 after all expenses of the Board for the current fiscal year have been fully provided for shall be
26 paid over to the North Carolina Engineering Foundation, Inc., for the benefit of the electrical
27 engineering department of the Greater University of North Carolina. Provided, however, the
28 Board shall have the right to maintain an amount, the cumulative total of which shall not
29 exceed twenty percent (20%) of gross receipts for the previous fiscal year of its operation as a
30 maximum contingency or emergency fund. (1937, c. 87, ss. 3, 7; 1969, c. 669, s. 1.)
31

32 **§ 87-46. Responsibility of licensee; nonliability of Board.**

33 Nothing in this Article shall relieve the holder or holders of licenses issued under the
34 provisions hereof from complying with the building or electrical codes or statutes or ordinances
35 of the State of North Carolina, or of any county or municipality thereof now in force or
36 hereafter enacted. Nothing in this Article shall be construed as relieving the holder of any
37 license issued hereunder from responsibility or liability for negligent acts on the part of such
38 holder in connection with electrical contracting work; nor shall the State Board of Examiners of
39 Electrical Contractors be accountable in damages, or otherwise for the negligent act or acts of
40 any holder of such license. (1937, c. 87, s. 12; 1969, c. 669, s. 1.)
41

42 **§ 87-47. Penalties imposed by Board; enforcement procedures.**

43 (a) Repealed by Session Laws 1989, c. 709, s. 9.

44 (a1) The following activities are prohibited:

- 45 (1) Offering to engage or engaging in electrical contracting without being
46 licensed.
- 47 (2) Selling, transferring, or assigning a license, regardless of whether for a fee.
- 48 (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to
49 offer to engage or to engage in electrical contracting.
- 50 (4) Being convicted of a crime involving fraud or moral turpitude.

- 1 (5) Engaging in fraud or misrepresentation to obtain a certification, obtain or
2 renew a license, or practice electrical contracting.
- 3 (6) Engaging in false or misleading advertising.
- 4 (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence,
5 gross incompetence, or gross misconduct in the practice of electrical
6 contracting.

7 (a2) The Board may administer one or more of the following penalties if the applicant,
8 licensee, or qualified individual has engaged in any activity prohibited under subsection (a1) of
9 this section:

- 10 (1) Reprimand.
- 11 (2) Suspension from practice for a period not to exceed 12 months.
- 12 (3) Revocation of the right to serve as a listed qualified individual on any
13 license issued by the Board.
- 14 (4) Revocation of license.
- 15 (5) Probationary revocation of license or the right to serve as a listed qualified
16 individual on any license issued by the Board, upon conditions set by the
17 Board as the case warrants, and revocation upon failure to comply with the
18 conditions.
- 19 (6) Revocation of certification.
- 20 (7) Refusal to certify an applicant or a qualified individual.
- 21 (8) Refusal to issue a license to an applicant.
- 22 (9) Refusal to renew a license.

23 (a3) In addition to administering a penalty under subsection (a2) of this section, the
24 Board may assess a civil penalty of not more than one thousand dollars (\$1,000) against a
25 licensee or a qualified individual who has engaged in an activity prohibited under subsection
26 (a1) of this section or has violated another provision of this Article or a rule adopted by the
27 Board. The clear proceeds of civil penalties collected under this subsection shall be remitted to
28 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

29 In determining the amount of a civil penalty, the Board shall consider:

- 30 (1) The degree and extent of harm to the public safety or to property, or the
31 potential for harm.
- 32 (2) The duration and gravity of the violation.
- 33 (3) Whether the violation was committed willfully or intentionally, or reflects a
34 continuing pattern.
- 35 (4) Whether the violation involved elements of fraud or deception either to the
36 public or to the Board, or both.
- 37 (5) The violator's prior disciplinary record with the Board.
- 38 (6) Whether and the extent to which the violator profited by the violation.

39 (a4) Any person, including the Board and its staff on their own initiative, may prefer
40 charges pursuant to this section, and such charges must be submitted in writing to the Board.
41 The Board may, without a hearing, dismiss charges as unfounded or trivial. The Board may
42 issue a notice of violation based on the charges, to be served by a member of the Board's staff
43 or in accordance with Rule 4 of the Rules of Civil Procedure, against any person, partnership,
44 firm, or corporation for engaging in an activity prohibited under subsection (a1) of this section
45 or for a violation of the provisions of this Article or any rule adopted by the Board. The person
46 or other entity to whom the notice of violation is issued may request a hearing by notifying the
47 Board in writing within 20 days after being served with the notice of violation. Hearings shall
48 be conducted by the Board or an administrative law judge pursuant to Article 3A of Chapter
49 150B of the General Statutes. In conducting hearings, the Board may remove the hearings to
50 any county in which the offense, or any part thereof, was committed if in the opinion of the
51 Board the ends of justice or the convenience of witnesses require such removal.

1 (a5) If the person or other entity does not request a hearing under subsection (a4) of this
2 section, the Board shall enter a final decision and may impose penalties against the person or
3 other entity. If the person or other entity is not a licensee or a qualified individual, the Board
4 may impose penalties under subsection (a2) of this section. If the person or other entity is a
5 licensee or a qualified individual, the Board may impose penalties under subsection (a2) of this
6 section, subsection (a3) of this section, or both.

7 (b) The Board shall adopt and publish rules, in accordance with Chapter 150B of the
8 General Statutes and consistent with the provisions of this Article, governing the matters
9 contained in this section.

10 (c) The Board shall establish and maintain a system whereby detailed records are kept
11 regarding charges and notices of violation pursuant to this section. This record shall include, for
12 each person, partnership, firm, and corporation charged or notified of a violation, the date and
13 nature of each charge or notice of violation, investigatory action taken by the Board, any
14 findings by the Board, and the disposition of the matter.

15 (d) The Board may reinstate a qualified individual's certification and may reinstate a
16 license after having revoked it, provided that one year has elapsed from revocation until
17 reinstatement and that the vote of the Board for reinstatement is by a majority of its members.

18 The Board shall immediately notify the Secretary of State and the electrical inspectors
19 within the licensee's county of residence upon the revocation of a license or the reissuance of a
20 license which had been revoked.

21 (e) In any case in which the Board is entitled to convene a hearing to consider imposing
22 any penalty provided for in subsection (a2) or (a3) of this section, the Board may accept an
23 offer in compromise of the charge, whereby the accused shall pay to the Board a penalty of not
24 more than one thousand dollars (\$1,000). The clear proceeds of penalties collected by the
25 Board under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in
26 accordance with G.S. 115C-457.2. (1969, c. 669, s. 1; 1973, c. 1331, s. 3; 1979, c. 904, s. 11;
27 1989, c. 709, s. 9; 1995, c. 114, s. 4; 1998-215, s. 132.)
28

29 **§ 87-48. Penalty for violation of Article; powers of Board to enjoin violation.**

30 (a) Any person, partnership, firm or corporation who shall violate any of the provisions
31 of this Article or any rule of the Board adopted pursuant to this Article or who shall engage or
32 offer to engage in the business of installing, maintaining, altering or repairing within the State
33 of North Carolina any electric wiring, devices, appliances or equipment without first having
34 obtained a license under the provisions of this Article shall be guilty of a Class 2 misdemeanor.

35 (b) Whenever it shall appear to the State Board of Examiners of Electrical Contractors
36 that any person, partnership, firm or corporation has violated, is violating, or threatens to
37 violate any provisions of this Article, the Board may apply to the courts of the State for a
38 restraining order and injunction to restrain such practices. If upon such application the court
39 finds that any provision of this Article is being violated, or a violation thereof is threatened, the
40 court shall issue an order restraining and enjoining such violations, and such relief may be
41 granted regardless of whether criminal prosecution is instituted under the provisions of this
42 Article. The venue for actions brought under this subsection shall be the superior court of any
43 county in which such acts are alleged to have been committed or in the county where the
44 defendants in such action reside. (1937, c. 87, s. 13; 1969, c. 669, s. 1; 1979, c. 904, s. 14;
45 1989, c. 709, s. 10; 1993, c. 539, s. 606; 1994, Ex. Sess., c. 24, s. 14(c).)
46

47 **§ 87-49. No examination required of licensed contractors.**

48 Any person, firm or corporation licensed in this State as a Class II electrical contractor on
49 the effective date of this Article shall be entitled to be licensed, without examination, in the
50 limited classification upon payment of the required fee and may be licensed in the intermediate
51 or in the unlimited classification without written examination upon satisfactory proof to the

1 Board that such applicant is in fact qualified for such classification. Any person, firm or
2 corporation licensed in this State as a Class I electrical contractor on the effective date of this
3 Article shall be entitled to be licensed without examination in the limited, intermediate or
4 unlimited classification upon payment of the required fee. Provided, that any person who has
5 been once duly licensed by the Board, whose license has expired solely because of failure to
6 apply for renewal, may apply and have a license issued under the provisions of this section if
7 within a period of 12 months preceding such issuance the applicant shall have been primarily
8 actively engaged as an electrical contractor or in an occupation which in the judgment of the
9 Board is similar or equivalent to that of an electrical contractor. (1969, c. 669, s. 1.)

10
11 **§ 87-50. Reciprocity.**

12 To the extent that other states which provide for the licensing of electrical contractors
13 provide for similar action, the Board may grant licenses of the same or equivalent classification
14 to electrical contractors licensed by other states without written examination upon satisfactory
15 proof furnished to the Board that the qualifications of such applicants are equal to the
16 qualifications of holders of similar licenses in North Carolina and upon payment of the required
17 fee. (1969, c. 669, s. 1.)

18
19 **§ 87-50.1. Public awareness program.**

20 The Board shall establish and implement a public awareness program to inform the general
21 public of the purpose and function of the Board. (1979, c. 904, s. 13.)

22
23 **§ 87-51. Severability of provisions.**

24 If any provision of this Article or the application thereof to any person or circumstances is
25 for any reason held invalid, such invalidity shall not affect other provisions or applications of
26 the Article which can be given effect without the invalid provision or application, and to this
27 end the provisions of this Article are declared to be severable. (1969, c. 669, s. 1.)

28
29 Article 5.

30 Refrigeration Contractors.

31 **§ 87-52. State Board of Refrigeration Examiners; appointment; term of office.**

32 For the purpose of carrying out the provisions of this Article, the State Board of
33 Refrigeration Examiners is created, consisting of seven members appointed by the Governor to
34 serve seven-year staggered terms. The Board shall consist of one member who is a wholesaler
35 or a manufacturer of refrigeration equipment; one member from an engineering school of The
36 University of North Carolina, one member from the Division of Public Health of The
37 University of North Carolina, two licensed refrigeration contractors, one member who has no
38 ties with the construction industry to represent the interest of the public at large, and one
39 member with an engineering background in refrigeration. The term of office of one member
40 shall expire each year. Vacancies occurring during a term shall be filled by appointment of the
41 Governor for the unexpired term. Whenever the term "Board" is used in this Article, it means
42 the State Board of Refrigeration Examiners. No Board member shall serve more than one
43 complete consecutive term. (1955, c. 912, s. 1; 1959, c. 1206, s. 2; 1973, c. 476, s. 128; 1979, c.
44 712, s. 1; 1995, c. 376, s. 1.)

45
46 **§ 87-53. Removal, qualifications and compensation of members; allowance for expenses.**

47 The Governor may remove any member of the Board for misconduct, incompetency or
48 neglect of duty. Each member of the Board shall be a resident of this State at the time of his
49 appointment. Payment of compensation and reimbursement of expenses of Board members
50 shall be governed by G.S. 93B-5. (1955, c. 912, s. 2; 1969, c. 445, s. 9; 1979, c. 712, ss. 2, 7.)

1 **§ 87-54. Organization meeting; officers; seal; rules.**

2 The Board shall within 30 days after its appointment meet in the City of Raleigh and
3 organize, and shall elect a chairman and secretary and treasurer, each to serve for one year.
4 Thereafter said officer shall be elected annually. The secretary and treasurer shall give bond
5 approved by the Board for the faithful performance of his duties, in such sum as the Board
6 may, from time to time, determine. The Board shall have a common seal, shall formulate rules
7 to govern its actions, and is hereby authorized to employ such personnel as it may deem
8 necessary to carry out the provisions of this Article. (1955, c. 912, s. 3.)

9
10 **§ 87-55. Regular and special meetings; quorum.**

11 The Board after holding its first meeting, as hereinbefore provided, shall thereafter hold at
12 least two regular meetings each year. Special meetings may be held at such times and places as
13 the bylaws and/or rules of the Board provide; or as may be required in carrying out the
14 provisions hereof. A quorum of the Board shall consist of four members. (1955, c. 912, s. 4.)

15
16 **§ 87-56. Record of proceedings and register of applicants; reports.**

17 The Board shall keep a record of its proceedings and a register of all applicants for
18 examination, showing the date of each application, the name, age and other qualifications,
19 places of business and residence of each applicant. The books and records of the Board shall be
20 prima facie evidence of the correctness of the contents thereof. On or before the first day of
21 March of each year the Board shall submit to the Governor a report of its activities for the
22 preceding year, and file with the Secretary of State a copy of such report, together with a
23 statement of receipts and expenditures of the Board attested by the chairman and secretary.
24 (1955, c. 912, s. 5.)

25
26 **§ 87-57. License required of persons, firms or corporations engaged in the refrigeration
27 trade.**

28 In order to protect the public health, safety, morals, order and general welfare of the people
29 of this State, all persons, firms or corporations, whether resident or nonresident of the State of
30 North Carolina, before engaging in refrigeration business or contracting, as defined in this
31 Article, shall first apply to the Board and shall procure a license. (1955, c. 912, s. 6.)

32
33 **§ 87-58. Definitions; contractors licensed by Board; examinations.**

34 (a) As applied in this Article, "refrigeration trade or business" is defined to include all
35 persons, firms or corporations engaged in the installation, maintenance, servicing and repairing
36 of refrigerating machinery, equipment, devices and components relating thereto and within
37 limits as set forth in the codes, laws and regulations governing refrigeration installation,
38 maintenance, service and repairs within the State of North Carolina or any of its political
39 subdivisions. The provisions of this Article shall not repeal any wording, phrase, or paragraph
40 as set forth in Article 2 of Chapter 87 of the General Statutes. This Article shall not apply to
41 any of the following:

- 42 (1) The installation of self-contained commercial refrigeration units equipped
43 with an Original Equipment Manufacturer (OEM) molded plug that does not
44 require the opening of service valves or replacement of lamps, fuses, and
45 door gaskets.
- 46 (2) The installation and servicing of domestic household self-contained
47 refrigeration appliances equipped with an OEM molded plug connected to
48 suitable receptacles which have been permanently installed and do not
49 require the opening of service valves.
- 50 (3) Employees of persons, firms, or corporations or persons, firms or
51 corporations, not engaged in refrigeration contracting as herein defined, that

1 install, maintain and service their own refrigerating machinery, equipment
2 and devices.

3 (4) Any person, firm or corporation engaged in the business of selling, repairing
4 and installing any comfort cooling devices or systems.

5 (b) The term "refrigeration contractor" means a person, firm or corporation engaged in
6 the business of refrigeration contracting.

7 (b1) The term "transport refrigeration contractor" means a person, firm, or corporation
8 engaged in the business of installation, maintenance, servicing, and repairing of transport
9 refrigeration.

10 (c) Any person, firm or corporation who for valuable consideration engages in the
11 refrigeration business or trade as herein defined shall be deemed and held to be in the business
12 of refrigeration contracting.

13 (d) In order to protect the public health, comfort and safety, the Board shall prescribe
14 the standard of experience to be required of an applicant for license and shall give an
15 examination designed to ascertain the technical and practical knowledge of the applicant
16 concerning the analysis of plans and specifications, estimating cost, fundamentals of
17 installation and design as they pertain to refrigeration; and as a result of the examination, the
18 Board shall issue a certificate of license in refrigeration to applicants who pass the required
19 examination and a license shall be obtained in accordance with the provisions of this Article,
20 before any person, firm or corporation shall engage in, or offer to engage in the business of
21 refrigeration contracting. The Board shall prescribe standards for and issue licenses for
22 refrigeration contracting and for transport refrigeration contracting. A transport refrigeration
23 contractor license is a specialty license that authorizes the licensee to engage only in transport
24 refrigeration contracting. A refrigeration contractor licensee is authorized to engage in transport
25 refrigeration and all other aspects of refrigeration contracting.

26 Each application for examination shall be accompanied by a check, post-office money order
27 or cash in the amount of the annual license fee required by this Article. Regular examinations
28 shall be given in the Board's office by appointment.

29 (e) Repealed by Session Laws 1979, c. 843, s. 1.

30 (f) Licenses Granted without an Examination. – Persons who had an established place
31 of business prior to July 1, 1979, and who produce satisfactory evidence that they are engaged
32 in the refrigeration business as herein defined in any city, town or other area in which Article 5
33 of Chapter 87 of the General Statutes did not previously apply shall be granted a certificate of
34 license, without examination, upon application to the Board and payment of the license fee,
35 provided completed applications shall be made prior to June 30, 1981.

36 (g) The current license issued in accordance with the provisions of this Article shall be
37 posted in the business location of the licensee, and its number shall appear on all proposals or
38 contracts and requests for permits issued by municipalities.

39 (h) A transport refrigeration contractor having an established place of business doing
40 transport refrigeration contracting prior to October 1, 1995, shall be granted a transport
41 refrigeration contracting specialty license, without examination, if the person produces
42 satisfactory evidence the person is engaged in transport refrigeration contracting, pays the
43 required license fee, and applies to the Board prior to January 1, 1997. The current specialty
44 license shall be posted in accordance with subsection (g) of this section.

45 (i) Nothing in this Article shall relieve the holder of a license issued under this section
46 from complying with the building or electrical codes, statutes, or ordinances of the State or of
47 any county or municipality or from responsibility or liability for negligent acts in connection
48 with refrigeration contracting work. The Board shall not be liable in damages, or otherwise, for
49 the negligent acts of licensees.

50 (j) The Board in its discretion upon application may grant a reciprocal license to a
51 person holding a valid, active substantially comparable license from another jurisdiction, but

1 only to the extent the other jurisdiction grants reciprocal privileges to North Carolina licensees.
2 (1955, c. 912, s. 7; 1959, c. 1206, s. 1; 1979, c. 843, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1082,
3 s. 5; 1989, c. 770, s. 13; 1995, c. 376, s. 2; 1998-216, ss. 1, 2, 2.1; 2009-333, ss. 1, 2.)
4

5 **§ 87-59. Revocation or suspension of license for cause.**

6 (a) The Board shall have power to revoke or suspend the license of any refrigeration
7 contractor who is guilty of any fraud or deceit in obtaining a license, or who fails to comply
8 with any provision or requirement of this Article, or for gross negligence, incompetency, or
9 misconduct, in the practice of or in carrying on the business of a refrigeration contractor as
10 defined in this Article. Any person may prefer charges of fraud, deceit, gross negligence,
11 incompetency, misconduct, or failure to comply with any provision or requirement of this
12 Article, against any refrigeration contractor who is licensed under the provisions of this Article.
13 All charges shall be in writing and verified by the complainant, and shall be heard and
14 determined by the Board in accordance with the provisions of Chapter 150B of the General
15 Statutes.

16 (b) The Board shall adopt and publish rules and regulations, consistent with the
17 provisions of this Article and Chapter 150B of the General Statutes, governing the suspension
18 and revocation of licenses.

19 (c) The Board shall establish and maintain a system whereby detailed records are kept
20 regarding complaints against each licensee. This record shall include, for each licensee, the date
21 and nature of each complaint, investigatory action taken by the Board, any findings of the
22 Board, and the disposition of the matter.

23 (d) In a case in which the Board is entitled to convene a hearing to consider a charge
24 under this section, the Board may accept an offer to compromise the charge, whereby the
25 accused shall pay to the Board a penalty not to exceed one thousand dollars (\$1,000). The funds
26 derived from the penalty shall be remitted to the Civil Penalty and Forfeiture Fund in
27 accordance with G.S. 115C-457.2.

28 (e) All records, papers, and other documents containing information collected and
29 compiled by the Board, or its members or employees, as a result of investigations, inquiries, or
30 interviews conducted in connection with a licensing or disciplinary matter, shall not be
31 considered public records within the meaning of Chapter 132 of the General Statutes. (1955, c.
32 912, s. 8; 1973, c. 1331, s. 3; 1979, c. 712, s. 3; 1989, c. 770, s. 14; 1995, c. 376, s. 3;
33 2009-333, ss. 3, 4.)
34

35 **§ 87-60. Reissuance of revoked licenses; replacing lost or destroyed licenses.**

36 The Board may in its discretion reissue license to any person, firm or corporation whose
37 license was revoked if a majority of the Board votes in favor of such reissuance for reasons
38 deemed sufficient by the Board. A new certificate of registration to replace any license which
39 may be lost or destroyed may be issued subject to the rules and regulations of the Board. (1955,
40 c. 912, s. 9; 1998-216, s. 3.)
41

42 **§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

43 Any person, firm or corporation who shall engage in or offer to engage in, or carry on the
44 business of refrigeration contracting as defined in this Article, without first having been
45 licensed to engage in the business, or businesses, as required by the provisions of this Article;
46 or any person, firm or corporation holding a refrigeration license under the provisions of this
47 Article who shall practice or offer to practice or carry on any type of refrigeration contracting
48 not authorized by the license; or any person, firm or corporation who shall give false or forged
49 evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall
50 falsely impersonate any other practitioner of like or different name, or who shall use an expired
51 or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a

1 Class 3 misdemeanor. The Board may, in its discretion, use its funds to defray the costs and
2 expenses, legal or otherwise, in the prosecution of any violation of this Article. Employees,
3 while working under the supervision and jurisdiction of a person, firm or corporation licensed
4 in accordance with the provisions of this Article, shall not be construed to have engaged in the
5 business of refrigeration contracting. (1955, c. 912, s. 10; 1993, c. 539, s. 607; 1994, Ex. Sess.,
6 c. 24, s. 14(c); 1995, c. 376, s. 4; 2009-333, s. 5.)
7

8 **§ 87-61.1. Board may seek injunctive relief; retain counsel.**

9 (a) Whenever it appears to the Board that any person, firm or corporation is violating
10 any of the provisions of this Article or of the rules and regulations promulgated under this
11 Article, the Board may apply to the superior court for a restraining order and injunction to
12 restrain the violation; and the superior courts have jurisdiction to grant the requested relief,
13 irrespective of whether or not criminal prosecution has been instituted or administrative
14 sanctions imposed by reason of the violation.

15 (b) The Board may employ or retain legal counsel for matters and purposes the Board
16 deems fit and proper, subject to G.S. 114-2.3. (1979, c. 712, s. 4; 2009-333, s. 6.)
17

18 **§ 87-62. Only one person in partnership or corporation need have license.**

19 (a) A corporation or partnership may engage in the business of refrigeration contracting
20 if one or more persons connected with the corporation or partnership is registered and licensed
21 as herein required, and the licensed person executes all contracts, exercises general supervision
22 over the work done thereunder and is responsible for compliance with all the provisions of this
23 Article. The Board may determine the number of businesses and the proximity of the
24 businesses one to another over which the licensed person may be responsible.

25 (b) For purposes of this section, the licensee's connection to the corporation or
26 partnership shall be in the form of a written contract that is executed prior to the corporation or
27 partnership engaging in refrigeration contracting.

28 (c) Nothing in this Article shall prohibit any employee from becoming licensed
29 pursuant to the provisions thereof. (1955, c. 912, s. 11; 1998-216, s. 4.)
30

31 **§ 87-63. License fees payable in advance; application of.**

32 All license fees shall be paid in advance as hereafter provided to the secretary and treasurer
33 of the Board and by him held as a fund for the use of the Board. The compensation and
34 expenses of the members of the Board as herein provided, the salaries of its employees, and all
35 expenses incurred in the discharge of its duties under this Article shall be paid out of such fund,
36 upon the warrant of the chairman and secretary and treasurer: Provided, upon the payment of
37 the necessary expenses of the Board as herein set out, and the retention by it of twenty-five per
38 centum (25%) of the balance of funds collected hereunder the residue, if any, shall be paid to
39 the State Treasurer. (1955, c. 912, s. 12.)
40

41 **§ 87-63.1. Ownership of real property; equipment; liability insurance.**

42 (a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and
43 otherwise deal with real property in the same manner as a private person or corporation, subject
44 only to the approval of the Governor and the Council of State. Collateral pledged by the Board
45 for an encumbrance is limited to the assets, income, and revenues of the Board.

46 (b) The Board may purchase or rent equipment and supplies and purchase liability
47 insurance or other insurance to cover the activities of the Board, its operations, or its
48 employees. (2009-333, s. 7.)
49

50 **§ 87-64. Examination and license fees; annual renewal.**

1 Each applicant for a license by examination shall pay to the Board of Refrigeration
2 Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty dollars
3 (\$40.00). In the event the applicant successfully passes the examination, the examination fee
4 shall be applied to the license fee required of licensees for the current year in which the
5 examination was taken and passed.

6 The license of every person licensed under the provisions of this statute shall be annually
7 renewed. Effective January 1, 2012, the Board may require, as a prerequisite to the annual
8 renewal of a license, that licensees complete continuing education courses in subjects related to
9 refrigeration contracting to ensure the safe and proper installation of commercial and transport
10 refrigeration work and equipment. On or before November 1 of each year the Board shall cause
11 to be mailed an application for renewal of license to every person who has received from the
12 Board a license to engage in the refrigeration business, as heretofore defined. On or before
13 January 1 of each year every licensed person who desires to continue in the refrigeration
14 business shall forward to the Board a renewal fee in an amount not to exceed forty dollars
15 (\$40.00) together with the application for renewal. Upon receipt of the application and renewal
16 fee the Board shall issue a renewal certificate for the current year. Failure to renew the license
17 annually shall automatically result in a forfeiture of the right to engage in the refrigeration
18 business. Any licensee who allows the license to lapse may be reinstated by the Board upon
19 payment of a fee not to exceed seventy-five dollars (\$75.00). Any person who fails to renew a
20 license for two consecutive years shall be required to take and pass the examination prescribed
21 by the Board for new applicants before being licensed to engage further in the refrigeration
22 business. (1955, c. 912, s. 13; 1969, c. 314; 1979, c. 843, ss. 3, 4; 1998-216, s. 5; 2009-333, s.
23 8.)
24

25 **§ 87-64.1. Public awareness program.**

26 The Board shall establish and implement a public awareness program to inform the general
27 public of the purpose and function of the Board. (1979, c. 712, s. 4.)
28

29 Article 6.

30 Water Well Contractors.

31 **§§ 87-65 through 87-82: Repealed by Session Laws 1977, c. 712, s. 2.**
32

33 Article 7.

34 North Carolina Well Construction Act.

35 **§ 87-83. Short title.**

36 This Article shall be known and may be cited as the North Carolina Well Construction Act.
37 (1967, c. 1157, s. 1.)
38

39 **§ 87-84. Findings and policy.**

40 The General Assembly of North Carolina finds that improperly constructed, operated,
41 maintained, or abandoned wells can adversely affect the public health and the groundwater
42 resources of the State. Consistent with the duty to safeguard the public welfare, safety, health
43 and to protect and beneficially develop the groundwater resources of this State, it is declared to
44 be the policy of this State to require that the location, construction, repair, and abandonment of
45 wells, and the installation of pumps and pumping equipment conform to such reasonable
46 requirements as may be necessary to protect the public welfare, safety, health and groundwater
47 resources. (1967, c. 1157, s. 2.)
48

49 **§ 87-85. Definitions.**

50 As used in this Article, unless the context otherwise requires:

- 1 (1) "Abandoned well" means a well whose use has been discontinued, or which
2 is in such a state of disrepair that continued use for obtaining groundwater or
3 other useful purpose is impracticable.
- 4 (2) "Aquifer" means a geologic formation, group of such formations, or a part of
5 such a formation that is water bearing.
- 6 (3) "Artesian well" means a well tapping a confined or artesian aquifer.
- 7 (4) "Environmental Management Commission" means the North Carolina
8 Environmental Management Commission or its successor, unless otherwise
9 indicated.
- 10 (5) "Construction of wells" means all acts necessary to construct wells for any
11 intended purpose or use, including the location and excavation of the well;
12 placement of casings, screens and fittings; development and testing.
- 13 (5a) "Department" means the Department of Environment and Natural Resources
14 unless otherwise indicated.
- 15 (6) "Installation of pumps and pumping equipment" means the procedure
16 employed in the placement and preparation for operation of pumps and
17 pumping equipment, including all construction involved in making entrances
18 to the well and establishing seals.
- 19 (7) "Municipality" means a city, town, county, district, or other public body
20 created by or pursuant to State law, or any combination thereof acting
21 cooperatively or jointly.
- 22 (8) "Nonpotable mineralized water" means brackish, saline, or other water
23 containing minerals of such quantity or type as to render the water unsafe,
24 harmful or generally unsuitable for human consumption and general use.
- 25 (9) "Person" shall mean any and all persons, including individuals, firms,
26 partnerships, associations, public or private institutions, municipalities or
27 political subdivisions, governmental agencies, or private or public
28 corporations organized or existing under the laws of this State or any other
29 state or country.
- 30 (10) "Polluted water" means water containing organic or other contaminants of
31 such type and quantity as to render it unsafe, harmful or unsuitable for
32 human consumption and general use.
- 33 (10a) "Private drinking water well" means any excavation that is cored, bored,
34 drilled, jetted, dug, or otherwise constructed to obtain groundwater for
35 human consumption and that serves or is proposed to serve 14 or fewer
36 service connections or that serves or is proposed to serve 24 or fewer
37 individuals. The term "private drinking water well" includes a well that
38 supplies drinking water to a transient noncommunity water system as
39 defined in 40 Code of Federal Regulations § 141.2 (July 1, 2003 Edition).
- 40 (11) "Pumps" and "pumping equipment" means any equipment or materials
41 utilized or intended for use in withdrawing or obtaining groundwater
42 including well seals.
- 43 (12) "Repair" means work involved in deepening, reaming, sealing, installing or
44 changing casing depths, perforating, screening, or cleaning, acidizing or
45 redevelopment of a well excavation, or any other work which results in
46 breaking or opening the well seal.
- 47 (13) "Water supply well" means any well intended or usable as a source of water
48 supply, but not to include a well constructed by an individual on land which
49 is owned or leased by him, appurtenant to a single-family dwelling, and
50 intended for domestic use (including household purposes, farm livestock, or
51 gardens).

- 1 (14) "Well" means any excavation that is cored, bored, drilled, jetted, dug or
2 otherwise constructed for the purpose of locating, testing or withdrawing
3 groundwater or for evaluating, testing, developing, draining or recharging
4 any groundwater reservoirs or aquifer, or that may control, divert, or
5 otherwise cause the movement of water from or into any aquifer.
6 (15) "Well driller," "driller" or "water well contractor" means any person, firm, or
7 corporation engaged in the business of constructing wells.
8 (16) "Well seal" means an approved arrangement or device used to cap a well or
9 to establish and maintain a junction between the casing or curbing of a well
10 and the piping or equipment installed therein, the purpose or function of
11 which is to prevent pollutants from entering the well at the upper terminal.
12 (17) "Operation of wells" means the process, frequency, and duration of
13 withdrawing water or other fluids from a well by any means. (1967, c. 1157,
14 s. 3; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1987, c. 496, s. 1; 1989, c. 727,
15 s. 218(21); 1997-358, s. 4; 1997-443, s. 11A.119(a); 2006-202, s. 1.)
16

17 **§ 87-86. Scope.**

18 No person shall construct, operate, repair, or abandon, or cause to be constructed, operated,
19 repaired, or abandoned, any well, nor shall any person install, repair, or cause to be installed or
20 repaired, any pump or pumping equipment contrary to the provisions of this Article and
21 applicable rules and regulations, provided that this Article shall not apply to any distribution of
22 water beyond the point of discharge from the pump. (1967, c. 1157, s. 4; 1987, c. 496, ss. 2, 3.)
23

24 **§ 87-87. Authority to adopt rules, regulations, and procedures.**

25 The Environmental Management Commission shall adopt rules governing the location,
26 construction, repair, and abandonment of wells, the operation of water wells or well systems
27 with a designed capacity of 100,000 gallons per day or greater, and the installation and repair of
28 pumps and pumping equipment. The Environmental Management Commission shall be
29 responsible for the administration of this Article and shall:

- 30 (1) Hold public hearings, upon not less than 30 days' prior notice setting forth
31 the date, place, and time of hearing, and the proposed rules and regulations
32 to be considered at said public hearing, which notice shall be published in
33 one or more newspapers having general circulation throughout the State, in
34 connection with proposed rules and regulations and amendments thereto.
35 (2) Enforce the provisions of this Article, and any rules and regulations not
36 inconsistent with the provisions of this Article adopted pursuant thereto.
37 (3) Establish procedures and forms for the submission, review, approval, and
38 rejection of applications, notifications, and reports required under this
39 Article.
40 (4) Issue such additional regulations as may be necessary to carry out the
41 provisions of this Article.
42 (5) Neither adopt nor enforce any rule or regulation that concerns the civil
43 liability of an owner to a well driller for any costs or expenses of drilling and
44 installing a well for the owner.
45 (6) Adopt rules governing the permitting and inspection by the Commission of
46 private drinking water wells with a designed capacity of 100,000 gallons per
47 day or greater.
48 (7) Adopt rules governing the permitting and inspection by local health
49 departments of private drinking water wells pursuant to G.S. 87-97. (1967, c.
50 1157, s. 5; 1973, c. 1262, s. 23; 1985, c. 728, s. 4; 1987, c. 496, s. 4;
51 2006-202, s. 2.)

1
2 **§ 87-88. General standards and requirements.**

3 (a) Prior Permission. – Prior permission shall be obtained from the Environmental
4 Management Commission for the construction of (i) any water well or of well systems with a
5 designed capacity of 100,000 gallons per day or greater; and (ii) of any well in a geographical
6 area where the Environmental Management Commission finds, after public hearings, such
7 permission to be reasonably necessary to protect the groundwater resources and the public
8 welfare, safety and health, taking into consideration other applicable State laws; provided,
9 however, that the Environmental Management Commission shall not reject any application
10 under this subsection for permission to construct a well except upon the ground that the well
11 would not be in compliance with a provision of this Article or with a rule or regulation of the
12 Environmental Management Commission adopted pursuant to the provisions of G.S. 87-87 of
13 this Article. Notification of approval or rejection of an application for permission to construct a
14 well shall be given the applicant within a period of 15 days after receipt of such application.
15 Private drinking water wells (i) with a designed capacity of 100,000 gallons per day or greater
16 or (ii) that are to be constructed in a geographical area where the Environmental Management
17 Commission has found that prior permission is necessary shall be subject to permitting and
18 inspection by the Environmental Management Commission and shall not be subject to
19 permitting and inspection by a local health department. All other private drinking water wells
20 shall be subject to permitting and inspection by the local health department as provided in G.S.
21 87-97.

22 (b) Reports. – Any person completing or abandoning any well shall furnish the
23 Environmental Management Commission a certified record of the construction or abandonment
24 of such well within a period of 30 days after completion of construction or abandonment.

25 (c) Prevention of Contamination. – Every well shall be constructed and maintained in a
26 condition whereby it is not a source or channel of contamination of the groundwater supply or
27 any aquifer. Wells subject to the provisions of subdivision (a)(i) of this section shall be
28 operated in such a way that they shall not cause the violation of applicable groundwater quality
29 standards. Contamination as used herein shall mean the act of introducing into water foreign
30 materials of such a nature, quality, and quantity as to cause degradation of the quality of the
31 water.

32 (d) Valves and Casing on Flowing Artesian Wells. – Valves and casing on all flowing
33 artesian wells shall be maintained in a condition so that the flow of water can be completely
34 stopped when the well is not being put to a beneficial use. Valves shall be closed when a
35 beneficial use is not being made.

36 (e) Access Port. – Every water-supply well and such other wells, as may be specified by
37 the Environmental Management Commission, shall be equipped with a usable access port or air
38 line and to be a minimum of 0.5 inch inside diameter opening so that the position of the water
39 level can be determined at any time. Such port shall be installed and maintained in such manner
40 as to prevent entrance of water or foreign material.

41 (f) Mineralized Water. – Whenever a water-bearing stratum or aquifer that contains
42 nonpotable mineralized water is encountered in well construction, the stratum shall be
43 adequately cased or cemented off as conditions may require so that contamination of the
44 overlying or underlying groundwater zones will not occur.

45 (g) Polluted Water. – In constructing any well, all water-bearing zones that are known
46 to contain polluted water shall be adequately cased or cemented off so that pollution of the
47 overlying and underlying groundwater zones will not occur.

48 (h) Well Test. – Every water-supply well shall be tested for capacity by a method and
49 for a period of time acceptable to the Department and depending on the intended use of the
50 well.

1 (i) Chlorination of the Well. – Upon completion of the well construction and pump
2 installation, all water-supply wells installed for the purpose of obtaining groundwater for
3 human consumption shall be sterilized in accordance with standards for sterilization of drinking
4 water wells established by the U.S. Public Health Service.

5 (j) Use of Well for Recharge or Disposal. – No well shall be used for recharge,
6 injection or disposal purposes without prior permission from the Environmental Management
7 Commission.

8 (k) Abandonment of Wells. –

9 (1) Temporary Abandonment: When any well is temporarily removed from
10 service, the top of the well shall be sealed with a water-tight cap or seal.

11 (2) Permanent Abandonment: Any well that is to be permanently abandoned
12 shall be filled, plugged, or sealed in such a manner as to prevent the well
13 from being a channel allowing the vertical movement of water and a source
14 of contamination of the groundwater supply.

15 (3) Abandonment of Water Supply Wells for Other Use: Any water supply well
16 that is removed from service as a potable water supply source may be used
17 for other purposes, including, but not limited to, irrigation, commercial use,
18 or industrial use, and such well is not subject to either subdivision (1) or (2)
19 of this subsection during its use for other purposes. For purposes of this
20 subsection only, "water supply well" includes wells constructed by an
21 individual on land which is owned or leased by the individual, appurtenant
22 to a single-family dwelling, and intended for domestic use (including
23 nonpotable household purposes, farm livestock, or gardens). (1967, c. 1157,
24 s. 6; 1973, c. 476, s. 128; c. 1262, s. 23; 1987, c. 496, s. 4; 1989, c. 727, s.
25 14; 1998-212, s. 14.9B(a); 2006-202, s. 3; 2006-259, s. 50(a); 2011-255, s.
26 3.)
27

28 **§ 87-89. Existing installations.**

29 No well or pump installation in existence and in use on July 6, 1967, shall be required to
30 conform to provisions of subsection (a) of G.S. 87-88, or any rules or regulations adopted
31 pursuant thereto not inconsistent with the provisions of this Article; provided, however, that
32 any well now or hereafter abandoned, including any well deemed to have been abandoned, as
33 defined in the Article, shall, within such time as may be specified by the Environmental
34 Management Commission, be brought into compliance with the requirements of this Article
35 and any applicable rules or regulations with respect to abandonment of wells. It is the intention
36 of the General Assembly that if the provisions of this section are held invalid as a grant of an
37 exclusive or separate emolument or privilege, within the meaning of Article I, Sec. 7 of the
38 North Carolina Constitution, the remainder of this Article shall be given effect without the
39 invalid provision or provisions. (1967, c. 1157, s. 7; 1973, c. 1262, s. 23.)
40

41 **§ 87-90. Rights of investigation, entry, access and inspection.**

42 The Environmental Management Commission or Department shall have the right to
43 conduct such investigations as it may reasonably find necessary to carry on its duties prescribed
44 in this Article, and for this purpose to enter at reasonable times upon any property, public or
45 private, for the purpose of investigating the condition, installation, or operation of any well or
46 associated equipment, facility, or property, and to require written statements or the filing of
47 reports under oath, with respect to pertinent questions relating to the installation or operation of
48 any well: Provided, that no person shall be required to disclose any secret formula, processes or
49 methods used in any manufacturing operation or any confidential information concerning
50 business activities carried on by him or under his supervision. No person shall refuse entry or
51 access to any authorized representative of the Environmental Management Commission who

1 requests entry for purposes of inspection, and who presents appropriate credentials, nor shall
2 any person obstruct, hamper or interfere with any such representative while in the process of
3 carrying out his official duties, consistent with the provisions of this Article. (1967, c. 1157, s.
4 8; 1973, c. 1262, s. 23.)

5
6 **§ 87-91. Notice of violation; remedial action order.**

7 (a) Whenever the Environmental Management Commission has reasonable grounds to
8 believe that there has been a violation of this Article or any rule adopted pursuant to this
9 Article, the Environmental Management Commission or Department shall give written notice
10 to the person or persons alleged to be in violation. The notice shall identify the provision of this
11 Article or rule adopted pursuant to this Article alleged to be violated and the facts alleged to
12 constitute the violation. The Environmental Management Commission may also issue an order
13 requiring specific remedial action. An order requiring remedial action shall specify the action to
14 be taken, the date by which the action must be completed, the possible consequences of failing
15 to comply with the order, and the procedure by which the alleged violator may seek review of
16 the order.

17 (b) The notice may be served by any means authorized under G.S. 1A-1, Rule 4. (1967,
18 c. 1157, s. 9; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1989, c. 727, s. 15; 1997-358, s. 7;
19 1997-443, s. 11A.119(a).)

20
21 **§ 87-92. Hearings; appeals.**

22 Any person wishing to contest a penalty, permit decision, or other order issued under this
23 Article shall be entitled to an administrative hearing and judicial review conducted according to
24 the procedures established in Chapter 150B of the General Statutes. (1967, c. 1157, s. 10; 1973,
25 c. 1262, s. 23; 1977, c. 771, s. 4; 1985, c. 728, s. 1; 1987, c. 827, ss. 1, 70.)

26
27 **§ 87-93: Repealed by Session Laws 1985, c. 728, s. 2.**

28
29 **§ 87-94. Civil penalties.**

30 (a) Any person who violates any provision of this Article, Article 7A of this Chapter,
31 any order issued pursuant thereto, or any rule adopted thereunder, shall be subject to a civil
32 penalty of not more than one thousand dollars (\$1,000) for each violation, as determined by the
33 Secretary of Environment and Natural Resources. Each day of a continuing violation shall be
34 considered a separate offense. No person shall be subject to a penalty who did not directly
35 commit the violation or cause it to be committed.

36 (b) Repealed by Session Laws 1997-358, s. 3.

37 (c) In determining the amount of the penalty the Secretary shall consider factors set out
38 in G.S. 143B-282.1(b). The procedures set out in G.S. 143-215.6A and G.S. 143B-282.1 shall
39 apply to civil penalties assessed under this section.

40 (d) The Secretary shall notify any person assessed a civil penalty of the assessment and
41 the specific reasons therefor by registered or certified mail, or by any means authorized by G.S.
42 1A-1, Rule 4.

43 (e) Repealed by Session Laws 1997-358, s. 3.

44 (f) Repealed by 1995 (Reg. Sess., 1996), c. 743, s. 2.

45 (g) The clear proceeds of civil penalties provided for in this section shall be remitted to
46 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1967, c. 1157, s.
47 12; 1985, c. 728, s. 3; 1987, c. 246, s. 2; 1989, c. 727, s. 218(22); 1989 (Reg. Sess., 1990), c.
48 1036, s. 10; 1995 (Reg. Sess., 1996), c. 743, s. 2; 1997-358, s. 3; 1997-443, s. 11A.119(a);
49 1998-215, s. 44; 2001-440, s. 1.4.)

50
51 **§ 87-95. Injunctive relief.**

1 Upon violation of any of the provisions of or any order issued pursuant to this Article, or
2 duly adopted rule of the Commission implementing the provisions of this Article, the Secretary
3 of Environment and Natural Resources may, either before or after the institution of proceedings
4 for the collection of the penalty imposed by this Article for such violations, request the
5 Attorney General to institute a civil action in the superior court in the name of the State upon
6 the relation of the Department of Environment and Natural Resources for injunctive relief to
7 restrain the violation or require corrective action, and for such other or further relief in the
8 premises as said court shall deem proper. Neither the institution of the action nor any of the
9 proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by
10 this Article for any violation of same. (1967, c. 1157, s. 13; 1973, c. 1262, s. 23; 1975, c. 842,
11 s. 1; 1977, c. 771, s. 4; 1989, c. 727, s. 16; 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443,
12 s. 11A.119(a).)

13
14 **§ 87-96. Conflict with other laws.**

15 (a) The provisions of any law, rule, or local ordinance which establish standards
16 affording greater protection to groundwater resources or public health, safety, or welfare shall
17 prevail, within the jurisdiction to which they apply, over the provisions of this Article and rules
18 adopted pursuant to this Article.

19 (b) Rules relating to public health, wells, or groundwater adopted by the Commission
20 for Public Health shall prevail over this Article, rules adopted pursuant to this Article, and rules
21 adopted by a local board of health pursuant to subsection (c) of this section. This Article shall
22 not be construed to repeal any law or rule in effect as of July 1, 1989.

23 (c) A local board of health may adopt by reference rules adopted by the Environmental
24 Management Commission pursuant to this Article, and may adopt more stringent rules when
25 necessary to protect the public health. (1967, c. 1157, s. 14; 1973, c. 476, s. 128; 1989, c. 727,
26 s. 17; 1991, c. 650, s. 1; 2007-182, s. 2.)

27
28 **§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

29 (a) Mandatory Local Well Programs. – Each county, through the local health
30 department that serves the county, shall implement a private drinking water well permitting,
31 inspection, and testing program. Local health departments shall administer the program and
32 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
33 set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay
34 or refuse to permit a well that can be constructed or repaired and operated in compliance with
35 the requirements set out in this Article and rules adopted pursuant to this Article.

36 (b) Permit Required. – Except for those wells required to be permitted by the
37 Environmental Management Commission pursuant to G.S. 87-88, no person shall:

38 (1) Construct or assist in the construction of a private drinking water well unless
39 a construction permit has been obtained from the local health department.

40 (2) Repair or assist in the repair of a private drinking water well unless a repair
41 permit has been obtained from the local health department, except that a
42 permit shall not be required for the repair or replacement of a pump or tank.

43 (c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair
44 permit shall not be required for any private drinking water well maintenance work that does not
45 involve breaking or opening the well seal. A repair permit shall not be required for any private
46 drinking water well repair work that involves only the repair or replacement of a pump or tank.

47 (d) Well Site Evaluation. – The local health department shall conduct a field
48 investigation to evaluate the site on which a private drinking water well is proposed to be
49 located before issuing a permit pursuant to this section. The field investigation shall determine
50 whether there is any abandoned well located on the site, and if so, the construction permit shall
51 be conditioned upon the proper closure of all abandoned wells located on the site in accordance

1 with the requirements of this Article and rules adopted pursuant to this Article. If a private
2 drinking water well is proposed to be located on a site on which a wastewater system subject to
3 the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed
4 to be located, the application for a construction permit shall be accompanied by a plat or site
5 plan, as defined in G.S. 130A-334.

6 (e) Issuance of Permit. – The local health department shall issue a construction permit
7 or repair permit if it determines that a private drinking water well can be constructed or
8 repaired and operated in compliance with this Article and rules adopted pursuant to this Article.
9 The local health department may impose any conditions on the issuance of a construction
10 permit or repair permit that it determines to be necessary to ensure compliance with this Article
11 and rules adopted pursuant to this Article. Notwithstanding any other provision of law, no
12 permit for a well that is in compliance with this Article and the rules adopted pursuant to this
13 Article shall be denied on the basis of a local government policy that discourages or prohibits
14 the drilling of new wells.

15 (f) Expiration and Revocation. – A construction permit or repair permit shall be valid
16 for a period of five years except that the local health department may revoke a permit at any
17 time if it determines that there has been a material change in any fact or circumstance upon
18 which the permit is issued. The foregoing shall be prominently stated on the face of the permit.
19 The validity of a construction permit or a repair permit shall not be affected by a change in
20 ownership of the site on which a private drinking water well is proposed to be located or is
21 located if the location of the well is unchanged and the well and the facility served by the well
22 remain under common ownership.

23 (f1) Chlorination of the Well. – Upon completion of construction of a private drinking
24 water well, the well shall be sterilized in accordance with the standards of drinking water wells
25 established by the United States Public Health Service.

26 (g) Certificate of Completion. – Upon completion of construction of a private drinking
27 water well or repair of a private drinking water well for which a permit is required under this
28 section, the local health department shall inspect the well to determine whether it was
29 constructed or repaired in compliance with the construction permit or repair permit. If the local
30 health department determines that the private drinking water well has been constructed or
31 repaired in accordance with the requirements of the construction permit or repair permit, the
32 construction and repair requirements of this Article, and rules adopted pursuant to this Article,
33 the local health department shall issue a certificate of completion. No person shall place a
34 private drinking water well into service without first having obtained a certificate of
35 completion. No person shall return a private drinking water well that has undergone repair to
36 service without first having obtained a certificate of completion.

37 (h) **(Effective until October 1, 2012)** Drinking Water Testing. – Within 30 days after it
38 issues a certificate of completion for a newly constructed private drinking water well, the local
39 health department shall test the water obtained from the well or ensure that the water obtained
40 from the well has been sampled and tested by a certified laboratory in accordance with rules
41 adopted by the Commission for Public Health. The water shall be tested for the following
42 parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium,
43 manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial
44 indicators.

45 (h) **(Effective October 1, 2012)** Drinking Water Testing. – Within 30 days after it
46 issues a certificate of completion for a newly constructed private drinking water well, the local
47 health department shall test the water obtained from the well or ensure that the water obtained
48 from the well has been sampled and tested by a certified laboratory in accordance with rules
49 adopted by the Commission for Public Health. The water shall be tested for the following
50 parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium,
51 manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial

1 indicators. The local health department also shall test the water obtained from the well for the
2 following parameters when required to do so pursuant to rules adopted by the Commission for
3 Public Health: methyl tert-butyl ether, ethylene dibromide, 1,2-dichloroethane,
4 1,2-dichloropropane, isopropyl ether, benzene, toluene, ethylbenzene, xylenes,
5 trichloroethylene, and tetrachloroethylene.

6 (i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The
7 Commission for Public Health shall adopt rules governing the sampling and testing of well
8 water and the reporting of test results. The rules shall allow local health departments to
9 designate third parties to collect and test samples and report test results. The rules shall also
10 provide for corrective action and retesting where appropriate. The Commission for Public
11 Health may by rule require testing for additional parameters if the Commission makes a
12 specific finding that testing for the additional parameters is necessary to protect public health.

13 (j) Test Results. – The local health department shall provide test results to the owner of
14 the newly constructed private drinking water well and, to the extent practicable, to any
15 leaseholder of a dwelling unit or other facility served by the well at the time the water is
16 sampled.

17 (k) Registry of Permits and Test Results. – Each local health department shall maintain
18 a registry of all private drinking water wells for which a construction permit or repair permit is
19 issued. The registry shall specify the physical location of each private drinking water well and
20 shall include the results of all tests of water from each well. The local health department shall
21 retain a record of the results of all tests of water from a private drinking water well until the
22 well is properly closed in accordance with the requirements of this Article and rules adopted
23 pursuant to this Article.

24 (l) Authority Not Limited. – This section shall not be construed to limit any authority
25 of local boards of health, local health departments, the Department of Health and Human
26 Services, or the Commission for Public Health to protect public health. (2006-202, s. 4;
27 2006-259, ss. 50(b), 50(c), 51; 2007-182, s. 2; 2007-495, s. 1; 2008-198, s. 1; 2009-124, ss. 1,
28 3; 2010-31, s. 10.10A; 2011-255, ss. 1, 2.)
29

30 **§ 87-98. Bernard Allen Memorial Emergency Drinking Water Fund.**

31 (a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under
32 the control and direction of the Department. The Fund shall be a nonreverting, interest-bearing
33 fund consisting of monies appropriated by the General Assembly or made available to the Fund
34 from any other source and investment interest credited to the Fund.

35 (b) The Fund may be used to pay for notification, to the extent practicable, of persons
36 aged 18 and older who reside in any dwelling unit, and the senior official in charge of any
37 business, at which drinking water is supplied from a private drinking water well or improved
38 spring that is located within 1,500 feet of, and at risk from, known groundwater contamination.
39 The senior official in charge of the business shall take reasonable measures to notify all
40 employees of the business of the groundwater contamination, including posting a notice of the
41 contamination in a form and at a location that is readily accessible to the employees of the
42 business. The Fund may also be used by the Department to pay the costs of testing of private
43 drinking water wells and improved springs for suspected contamination up to once every three
44 years upon request by a person who uses the well and for the temporary or permanent provision
45 of alternative drinking water supplies to persons whose drinking water well or improved spring
46 is contaminated. Under this subsection, an alternative drinking water supply includes the repair
47 or replacement of a contaminated well or the connection to a public water supply.

48 (c) The Department shall disburse monies from the Fund based on financial need and
49 on the risk to public health posed by groundwater contamination and shall give priority to the
50 provision of services under this section to instances when an alternative source of funds is not
51 available. The Fund shall not be used to provide alternative water supply to households with

1 incomes greater than three hundred percent (300%) of the current federal poverty level. The
2 Fund may be used to provide alternative drinking water supplies if the Department determines
3 that the concentration of one or more contaminants in the private drinking water well or
4 improved spring exceeds the federal maximum contaminant level, or the federal drinking water
5 action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July
6 2007) and 40 Code of Federal Regulations § 143.3 (1 July 2007). For a contaminant for which
7 a federal maximum contaminant level or drinking water action level has not been established,
8 the State groundwater standard established by the Environmental Management Commission for
9 the concentration of that contaminant shall be used to determine whether the Fund may be used
10 to provide alternative drinking water supplies. The Fund may also be used to provide
11 alternative drinking water supplies as provided in this section if the Department determines that
12 the concentration of one or more contaminants in a private drinking water well is increasing
13 over time and that there is a significant risk that the concentration of a contaminant will exceed
14 the federal maximum contaminant level or drinking water action level, or the State groundwater
15 standard. A determination of the concentration of a contaminant shall be based on a sample of
16 water collected from the private drinking water well within the past 12 months.

17 (c1) In disbursing monies from the Fund, the Department shall give preference to
18 provision of permanent replacement water supplies by connection to public water supplies and
19 repair or replacement of contaminated wells over the provision of temporary water supplies. In
20 providing alternative drinking water supplies, the Department shall give preference to
21 connection to a public water supply system or to construction of a new private drinking water
22 well over the use of a filtration system if the Department determines that the costs of periodic
23 required maintenance of the filtration system would be cost-prohibitive for users of the
24 alternative drinking water supply.

25 (c2) If the Department provides an alternative drinking water supply by extension of a
26 waterline, the Department may disburse from the Fund no more than ten thousand dollars
27 (\$10,000) per household or other service connection. No more than one-third of the total cost of
28 the project may be paid from the Fund. The Department may combine monies from the Fund
29 with monies from other sources in order to pay the total cost of the project.

30 (c3) The Fund shall be used to provide alternative drinking water supplies only if the
31 Department determines that the person or persons who are responsible for the contamination of
32 the private drinking water well is or are not financially viable or cannot be identified or located
33 and if the Department determines that one of the following applies:

- 34 (1) The contamination of the private drinking water well is naturally occurring.
- 35 (2) The owner of the property on which the private drinking water well is
36 located did not cause or contribute to the contamination or control the source
37 of the contamination.
- 38 (3) The source of the contamination is the application or disposal of a hazardous
39 substance or pesticide that occurred without the consent of the owner of the
40 property on which the private drinking water well is located.

41 (c4) The Department may use up to one hundred thousand dollars (\$100,000) of the
42 monies in the Fund to pay the personnel and other direct costs associated with the
43 implementation of this section.

44 (c5) The Fund shall not be used for remediation of groundwater contamination.

45 (c6) Nothing in this section expands, contracts, or modifies the obligation of responsible
46 parties under Article 9 or 10 of Chapter 130A of the General Statutes, this Article, or Article
47 21A of this Chapter to assess contamination, identify receptors, or remediate groundwater or
48 soil contamination.

49 (d) The Department shall establish criteria by which the Department is to evaluate
50 applications and disburse monies from this Fund and may adopt any rules necessary to
51 implement this section.

1 (e) The Department, in consultation with the Commission for Public Health and local
2 health departments, shall report no later than 1 October of each year to the Environmental
3 Review Commission, the House of Representatives and Senate Appropriations Subcommittees
4 on Natural and Economic Resources, and the Fiscal Research Division of the General
5 Assembly on the implementation of this section. The report shall include the purpose and
6 amount of all expenditures from the Fund during the prior fiscal year, a discussion of the
7 benefits and deficiencies realized as a result of the section, and may also include
8 recommendations for any legislative action. (2006-255, s. 5.2; 2007-182, s. 2; 2007-323, s.
9 12.2(a); 2008-107, s. 12.1.)

10
11 Article 7A.
12 Well Contractors Certification.

13 **§ 87-98.1. Title.**

14 This Article may be cited as the North Carolina Well Contractors Certification Act.
15 (1997-358, s. 2.)
16

17 **§ 87-98.2. Definitions.**

18 The definitions in G.S. 87-85 and the following definitions apply in this Article:

- 19 (1) Commission. – The Well Contractors Certification Commission, as
20 established by G.S. 143B-301.11.
21 (2) Department. – The Department of Environment and Natural Resources.
22 (3) Person. – A natural person.
23 (4) Secretary. – The Secretary of Environment and Natural Resources.
24 (5) Well contractor. – A person in trade or business who undertakes to perform a
25 well contractor activity or who undertakes to personally supervise or
26 personally manage the performance of a well contractor activity on the
27 person's own behalf or for any person, firm, or corporation.
28 (6) Well contractor activity. – The construction, installation, repair, alteration, or
29 abandonment of any well. (1997-358, s. 2; 1997-443, s. 11A.119(b);
30 2002-165, s. 1.1.)
31

32 **§ 87-98.3. Purpose.**

33 It is the purpose of this Article to protect the public health and safety by ensuring the
34 integrity and competence of well contractors, to protect and beneficially develop the
35 groundwater resources of the State, to require the examination of well contractors and the
36 certification of their competency to supervise or conduct well contractor activity, and to
37 establish procedures for the examination and certification of well contractors. (1997-358, s. 2.)
38

39 **§ 87-98.4. Well contractor certification required; exemptions.**

40 (a) Certification Required. – No person shall perform, manage, or supervise any well
41 contractor activity without being certified under this Article. A person who is not a certified
42 well contractor or who is not employed by a certified well contractor shall not offer to perform
43 any well contractor activity unless the person utilizes a certified well contractor to perform the
44 well contractor activity and, prior to the performance of the well contractor activity, the person
45 discloses to the landowner in writing the name of the certified well contractor who will perform
46 the well contractor activity, the certification number of the well contractor, and the name of the
47 company that employs the certified well contractor.

48 (b) Exempt persons and activities. – This Article does not apply to any of the following
49 persons or activities:

- 1 (1) A person who is employed by, or performs labor or services for, a certified
2 well contractor in connection with well contractor activity performed under
3 the personal supervision of the certified well contractor.
- 4 (2) A person who constructs, repairs, or abandons a well that is located on land
5 owned or leased by that person.
- 6 (3) A person who is employed by a government agency and who performs well
7 contractor activity solely within the scope of the person's government
8 employment.
- 9 (4) A person who is licensed as a professional engineer under Chapter 89C of
10 the General Statutes, a geologist under Chapter 89E of the General Statutes,
11 or a soil scientist under Chapter 89F of the General Statutes who uses a hand
12 auger to collect soil or water samples or to measure water levels. This
13 exemption does not include the construction of a monitoring well.
- 14 (5) Construction, repair, or abandonment of a well used for a temporary
15 dewatering activity that is associated with, and necessary to complete
16 construction of, a utility distribution or collection system, a building or other
17 structure, or a transportation system, if all of the following conditions are
18 met:
 - 19 a. The dewatering well is constructed solely for the purpose of
20 removing water from or lowering the water table in the immediate
21 area of the construction activity.
 - 22 b. The dewatering well is located within 25 feet of the excavation and is
23 not greater than 25 feet deeper than the excavation.
 - 24 c. The dewatering well is abandoned in accordance with rules
25 governing the abandonment of wells adopted by the Environmental
26 Management Commission pursuant to G.S. 87-87 within 30 days of
27 installation of the well or within 10 days of completion of the project,
28 whichever is later.
- 29 (6) Construction, repair, or abandonment of a well used for a temporary
30 dewatering activity that is associated with the construction of a borrow pit if
31 the dewatering activity is located within 15 feet of the proposed perimeter of
32 the borrow pit.
- 33 (7) Exploratory drilling for mining-related investigations.
- 34 (8) Installation of a water level observation well on property for which a mining
35 permit has been issued under the Mining Act of 1971, Article 7 of Chapter
36 74 of the General Statutes.
- 37 (9) Drilling of a blast hole.
- 38 (10) Installation of a cathodic protection anode.
- 39 (11) Installation of a wetland monitoring gauge at a depth of eight feet or less for
40 the purpose of monitoring fluctuations in the water table.
- 41 (12) Installation of a caisson, piling, or structural pier.
- 42 (13) A person who is licensed as a plumbing contractor under Article 2 of
43 Chapter 87 of the General Statutes who installs pumps or pumping
44 equipment; installs, breaks, or reinstalls a well seal in accordance with G.S.
45 87-85(6); or disinfects a well incident to the installation, alteration, or
46 replacement of pumps or pumping equipment within or near a well.
47 However, the plumbing contractor shall maintain documentation of having
48 attended a continuing education course that covered well seal installation,
49 protection, and sanitation within the last two years prior to the work being
50 performed. The State Board of Examiners of Plumbing, Heating and Fire
51 Sprinkler Contractors shall ensure that continuing education courses

1 covering well seal installation, protection, and sanitation are available to
2 licensed plumbing contractors during each six-month continuing education
3 course schedule. The licensed plumbing contractor shall remain on-site
4 while the work is being performed until the well is disinfected and sealed.

5 (c) Additional Exemptions. – In addition to the exemptions set out in subsection (b) of
6 this section, the Commission may exempt by rule a geophysical activity, construction activity,
7 or other well contractor activity from the requirements of this Article if the Commission finds
8 that the activity has a negligible impact on the environment; public health, safety, and welfare;
9 and the groundwater resources of the State. (1997-358, s. 2; 1998-129, s. 1; 2001-440, s. 1.1;
10 2005-386, s. 9; 2009-418, s. 1.)

11
12 **§ 87-98.5. Types of certification; sole certification.**

13 The Commission, with the advice and assistance of the Secretary, shall establish the
14 appropriate types of certification for well contractors. Each certification type established by the
15 Commission shall be the sole certification required to engage in well contractor activity in the
16 State. (1997-358, s. 2.)

17
18 **§ 87-98.6. Well contractor qualifications and examination.**

19 The Commission, with the advice and assistance of the Secretary, shall establish minimum
20 requirements of education, experience, and knowledge for each type of certification for well
21 contractors and shall establish procedures for receiving applications for certification,
22 conducting examinations, and making investigations of applicants as may be necessary and
23 appropriate so that prompt and fair consideration will be given to each applicant. (1997-358, s.
24 2.)

25
26 **§ 87-98.7. Issuance and renewal of certificates; temporary certification; refusal to issue a
27 certificate.**

28 (a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements,
29 shall be certified to perform in the capacity of a well contractor and shall be issued a suitable
30 certificate by the Commission designating the level of the person's competency. A certificate
31 shall be valid for one year or until any of the following occurs:

- 32 (1) The certificate holder voluntarily surrenders the certificate to the
33 Commission.
34 (2) The certificate is revoked or suspended by the Commission for cause.

35 (b) Renewal. – A certificate shall be renewed annually by payment of the annual fee
36 and proof that the applicant has completed any professional development hours as may be
37 required by the rules of the Commission. A person who fails to renew a certificate within 30
38 days of the expiration of the certificate must reapply for certification under this Article.

39 (c) Temporary Certification. – A person may receive temporary certification to
40 construct a well upon submission of an application to the Commission and subsequent approval
41 in accordance with the criteria established by the Commission and upon payment of a
42 temporary certification fee. A temporary certification shall be granted to the same person only
43 once per calendar year and may not be valid for a period in excess of 45 consecutive days. To
44 perform additional well contractor activity during that same calendar year, the person shall
45 apply for certification under this Article.

46 (d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate under
47 any of the following circumstances:

- 48 (1) The applicant has not paid civil penalties assessed against the applicant
49 under G.S. 87-94 for a violation of this Article, Article 7 of this Chapter, or
50 any rule adopted to implement either of those Articles.

- 1 (2) The applicant has not conducted all restoration activities ordered by the
2 Department related to a violation by the applicant of Article 7 of this
3 Chapter.
4 (3) As determined by the Commission, the applicant has a history of not
5 complying with this Article, Article 7 of this Chapter, or any rule adopted to
6 implement either of those Articles. (1997-358, s. 2; 2001-440, s. 1.2;
7 2007-495, s. 2.)
8

9 **§ 87-98.8. Disciplinary actions.**

10 The Commission may issue a written reprimand to a well contractor or, in accordance with
11 the provisions of Article 3A of Chapter 150B of the General Statutes, may suspend or revoke
12 the certificate of a well contractor if the Commission finds that the well contractor has:

- 13 (1) Engaged in fraud or deception in connection with obtaining certification or
14 in connection with any well contractor activity.
15 (2) Failed to use reasonable care, judgment, or the application of the person's
16 knowledge or ability in the performance of any well contractor activity.
17 (3) Been grossly negligent or has demonstrated willful disregard of any
18 applicable laws or rules governing well construction.
19 (4) Failed to satisfactorily complete continuing education requirements
20 established by the Commission. (1997-358, s. 2.)
21

22 **§ 87-98.9. Fees; Well Construction Fund.**

23 (a) Fees. – The Commission may set a fee for certification by examination, an annual
24 fee for certification renewal, and a fee for temporary certification. The fee for certification by
25 examination may not exceed one hundred dollars (\$100.00), the annual fee may not exceed two
26 hundred dollars (\$200.00) per year, and the temporary certification fee shall not exceed one
27 hundred dollars (\$100.00). A well contractor certificate is void if the well contractor fails to
28 pay the annual fee within 30 days of the date the fee is due.

29 (b) Fund. – The Well Construction Fund is created as a nonreverting account within the
30 Department. All fees collected pursuant to this Article shall be credited to the Fund. The Fund
31 shall be used for the costs of administering this Article. (1997-358, s. 2.)
32

33 **§ 87-98.10. Promotion of training.**

34 The Commission and the Secretary may provide training for well contractors and cooperate
35 with educational institutions and private and public associations, persons, or corporations in
36 providing training for well contractors. (1997-358, s. 2.)
37

38 **§ 87-98.11. Responsibilities of well contractors.**

39 All persons receiving certification under this Article to perform well contractor activities in
40 this State shall be responsible for complying with all statutes, rules, and generally accepted
41 construction practices, including all local rules or ordinances governing well contractor
42 activities. (1997-358, s. 2.)
43

44 **§ 87-98.12. Continuing education requirements.**

45 In order to continue to be certified under this Article, a well contractor shall satisfactorily
46 complete the number of hours of approved continuing education required by the Commission.
47 The Commission shall establish the minimum number of hours of continuing education that
48 shall be required to maintain certification, shall specify the scope of required continuing
49 education courses, and shall approve continuing education courses. (1997-358, s. 2; 1998-129,
50 s. 1; 2001-440, s. 1.3; 2007-495, s. 5.)
51

1 **§ 87-98.13. Injunctive relief.**

2 Upon violation of this Article, a rule adopted under this Article, or an order issued under
3 this Article, the Secretary may, either before or after the institution of proceedings for the
4 collection of any penalty imposed under this Article for the violation, request the Attorney
5 General to institute a civil action in the superior court in the name of the State for injunctive
6 relief to restrain the violation or require corrective action and for any other relief the court finds
7 proper. Initiating an action shall not relieve any party to the proceedings from any penalty
8 prescribed by this Article. (1997-358, s. 2.)
9

10 **§ 87-99. Reserved for future codification purposes.**

11
12 Article 8.

13 Underground Damage Prevention.

14 **§ 87-100. Short title.**

15 This Article shall be known as the "Underground Damage Prevention Act". (1985, c. 785, s.
16 1.)
17

18 **§ 87-101. Definitions.**

19 As used in this Article:

- 20 (1) "Association" means an association, sponsored by utility owners, that will
21 provide for receipt of notification of excavation operations in a defined
22 geographical area, and that will maintain the records of the notifications.
- 23 (2) "Damage" includes the substantial weakening of structural or lateral support
24 of an underground utility, penetration or destruction of protective coating,
25 housing, or other protective device of an underground utility, and the partial
26 or complete severance of an underground utility.
- 27 (3) "Excavate" or "excavation" means an operation for the purpose of the
28 movement or removal of earth, rock, or other materials in or on the ground
29 by use of equipment operated by means of mechanical power and/or an
30 operation by which a structure or mass of material is wrecked, razed, moved,
31 or removed by means of any tools, equipment, or discharge of explosives.
32 This term includes road construction but does not include road maintenance
33 activities within rights-of-way of a highway, including those maintenance
34 activities defined by the rules and regulations of the North Carolina
35 Department of Transportation.
- 36 (4) "Highway" has the meaning set out in G.S. 20-4.01 as the same shall be
37 amended from time to time.
- 38 (5) "Location of underground utilities" means a strip of land not wider than the
39 width of the underground utility plus two and one-half (2 1/2) feet on either
40 side of the underground utility.
- 41 (6) "Person" means a corporation, individual, copartnership, company,
42 association, or any combination of individuals or organizations doing
43 business as a unit, any subdivision or instrumentality of the State, and
44 includes any officer, agent, trustee, receiver, assignee, lessee, or personal
45 representative of any of the above entities.
- 46 (7) "Person financially responsible" means that person who ultimately receives
47 the benefits of any completed excavation activities, including a person
48 owning or leasing real property or holding an easement or interest in an
49 easement.
- 50 (8) "Public spaces" means any area owned by the State or any of its political
51 subdivisions or dedicated for public use.

- 1 (9) "Road construction" means the actual building of a new highway; or the
2 paving, grading, widening, relocation, reconstruction, or other major
3 improvement of a substantial portion of an existing highway.
4 (10) "Road maintenance" means preservation, including repairs and resurfacing
5 of a highway, not amounting to road construction.
6 (11) "Street" has the meaning set out in G.S. 20-4.01 as the same shall be
7 amended from time to time.
8 (12) "Underground utility" means any underground line, system or facility used
9 for producing, storing, conveying, transmitting, or distributing
10 communication or telecommunication, electricity, gas, petroleum and
11 petroleum products, coal slurry, hazardous liquids, water under pressure,
12 steam, or sanitary sewage, but not including traffic signal control cables and
13 vehicle detection cables of the North Carolina Department of Transportation.
14 (13) "Utility owner" means any person who owns or operates an underground
15 utility.
16 (14) "Work day" means every day except Saturday, Sunday, national legal
17 holidays and State legal holidays. (1985, c. 785, s. 1.)
18

19 **§ 87-102. Notice required prior to excavation.**

20 (a) Except as provided in G.S. 87-106, before commencing any excavations in
21 highways, public spaces or in private easements of a utility owner, a person planning to
22 excavate shall notify each utility owner having underground utilities located in the proposed
23 area to be excavated, either orally or in writing, not less than two nor more than 10 working
24 days prior to starting, of his intent to excavate.

25 (b) The written or oral notice required in subsection (a) shall contain:

- 26 (1) The name, address, and telephone number of the person filing the notice;
27 (2) The name, address, and telephone number of the person doing the
28 excavating;
29 (3) The anticipated starting date of the excavation;
30 (4) The anticipated duration of the excavation;
31 (5) The type of excavation to be conducted;
32 (6) The location of the proposed excavation; and
33 (7) Whether or not explosives will be used.

34 (c) If the notice required by this section is made by telephone, an adequate record shall
35 be made of the notification by the utility owners or the utility association and the person
36 making the notification, to document compliance with this section. (1985, c. 785, s. 1.)
37

38 **§ 87-103. Effect of permit on liability.**

39 A permit authorizing excavation operations and issued pursuant to law or ordinance shall
40 not relieve a person of the responsibility of complying with this Article. (1985, c. 785, s. 1.)
41

42 **§ 87-104. Requirements of person doing excavation.**

43 (a) Except as provided in G.S. 87-106, no person may excavate in a highway, a public
44 space, or a private easement of a utility owner without first having given the notice required in
45 G.S. 87-102 to the utility owners.

46 (b) In addition to the notification requirements, each person excavating shall:

- 47 (1) Plan the excavation to avoid damage and to minimize interference with
48 underground utilities in and near the construction area, to the best of his
49 abilities;
50 (2) Maintain a clearance between an underground utility and the cutting edge or
51 point of any mechanized equipment, taking into account the known limit of

1 control of that cutting edge or point, as is reasonably required to avoid
2 damage; and

- 3 (3) Provide support for the underground utilities in or near the construction
4 area, including backfill, as may be reasonably required by the utility owner
5 for the protection of the underground utilities. (1985, c. 785, s. 1.)
6

7 **§ 87-105. Requirements of the person financially responsible for the excavation.**

8 The person financially responsible shall provide to the person responsible for doing the
9 excavating, the names of all underground utility owners in the area of the proposed excavation.
10 The names of the utility owners may be obtained from the County Register of Deeds or the
11 Building Inspection Department of the political subdivision in which the excavating is taken
12 place, if there is one. (1985, c. 785, s. 1.)
13

14 **§ 87-106. Exceptions.**

15 The following excavations are exempted from the notification requirements of this Article:

- 16 (1) Tilling of soil for agricultural purposes;
17 (2) Excavation by a utility owner, by the State or its subdivisions or agencies, or
18 by anyone contracting with any of these entities to perform the excavation,
19 on or within an easement, right-of-way, or property owned or controlled by
20 any of these entities, where:
21 a. Only the facilities of the utility owner doing the excavating are
22 permitted; or
23 b. All persons having an interest in the excavation and the underground
24 utilities that may be damaged during the excavation have agreed in
25 writing to provide the equivalent of the notification required by this
26 Article among themselves; or
27 (3) The replacement of a pole as long as the replacement pole is within three
28 feet of the original pole and within the line of existing poles. This exception
29 shall not apply to poles at highway intersections or at the crossings of
30 highways and permanently marked transmission underground utilities.
31 (4) In the case of an emergency involving danger to life, health, or property
32 requiring immediate correction, or in order to continue the operation of a
33 major industrial plant, or in order to assure the continuity of utility services,
34 excavations immediately required to repair or maintain the needed service
35 may be made, without using explosives, if notice is given to the utility owner
36 or association as soon as is reasonably possible; except that the prohibition
37 against the use of explosives shall not apply to the North Carolina
38 Department of Transportation. Performance of emergency excavation shall
39 not relieve the excavator of liability for damages. (1985, c. 785, s. 1.)
40

41 **§ 87-107. Duties of the utility owners.**

42 Each utility owner, or his designated representative including an association, notified of an
43 intent to excavate shall, before the proposed start of excavating (unless another period is agreed
44 to by the person conducting the excavation and the utility owner or their representatives),
45 provide the following information to the person excavating to the extent such information is
46 reflected by records in the possession of and reasonably available to the utility owner:

- 47 (1) The location and description of all of the underground utilities which may be
48 damaged as a result of the excavation;
49 (2) The location and description of all utility markers indicating the location of
50 the underground utilities; and

- 1 (3) Any other information that would assist in locating and avoiding damage to
2 the underground utilities, including providing temporary markings when
3 necessary indicating the location of the underground utility in locations
4 where permanent utility markers do not exist. (1985, c. 785, s. 1.)
5

6 **§ 87-108. Absence of utility location.**

7 Should any utility owner who has been given notice pursuant to G.S. 87-102 fail to respond
8 to that notice as provided in G.S. 87-107, or fail to properly locate the underground utility, then
9 the person excavating is free to proceed with the excavation. Neither the excavator nor the
10 person financially responsible for the excavation will be liable to the nonresponding or
11 improperly responding utility owner for damages to that utility owner's facilities if the person
12 doing the excavating shall exercise due care to protect existing underground utilities when there
13 is evidence of the existence of those underground utilities near the proposed excavation site.
14 (1985, c. 785, s. 1.)
15

16 **§ 87-109. Recording requirements for associations.**

17 An association shall record with the Register of Deeds of each county in which
18 participating utility owners own or operate underground utilities, a notarized document
19 providing the telephone number and address of the association, a description of the
20 geographical area served by the association, and a list of the names and addresses of the utility
21 owners receiving these services from the association. (1985, c. 785, s. 1.)
22

23 **§ 87-110. Recording requirements for utility owners.**

24 (a) Each utility owner having underground utilities in North Carolina shall record a
25 notarized document containing the name of the utility owner and the title, address, and
26 telephone number of its representatives designated to receive the written or oral notice of intent
27 to excavate, with the Register of Deeds of each county in which the utility owner owns or
28 operates underground facilities. This document shall be executed by an officer of the utility
29 owner or in the case of a governmental entity, the authorized official.

30 (b) Any change or modification of the information recorded by a utility owner, pursuant
31 to subsection (a) of this section, shall be made by recording the corrected information with the
32 Register of Deeds of each county to which the change or modification applies, in the manner
33 required by subsection (a) of this section within five days of the change made to the utilities.

34 (c) For purposes of the recordings required by subsections (a) and (b) of this section,
35 recordings by an association pursuant to G.S. 87-109 shall satisfy the recording requirements
36 for each utility owner who is a member of the association while that utility owner remains a
37 member of the association.

38 (d) Upon receipt of the documents recorded pursuant to subsections (a), (b), or (c) of
39 this section, the Register of Deeds shall place the documents in the Grantor's Index under the
40 heading "Underground Utilities". The registration fee imposed by Chapter 161 of the General
41 Statutes shall apply to these documents. (1985, c. 785, s. 1.)
42

43 **§ 87-111. Recorded information filed with inspection departments.**

44 A copy of any document or modification or change in the information in that document
45 recorded pursuant to G.S. 87-109 or G.S. 87-110 shall be filed with any county or municipal
46 inspection department having jurisdiction over any area where the underground utilities are
47 located. Such inspection departments shall maintain these filings in alphabetical order in an
48 accessible form. (1985, c. 785, s. 1.)
49

50 **§ 87-112. Color-coding.**

1 When the location of an underground utility is marked with stakes or by other physical
2 means, pursuant to this Article, the utility owner shall use colored markers following the
3 American Public Works Association Uniform Color Code for Utilities. (1985, c. 785, s. 1.)
4

5 **§ 87-113. Notification required when damage done.**

6 (a) The person doing an excavation that results in any known damage to an
7 underground utility shall, immediately after the discovery of the damage, notify the utility
8 owner of the location and nature of the damage and shall allow the utility owner reasonable
9 time to repair the damage before completing the excavation in the immediate area of the
10 damaged underground utility.

11 (b) The person responsible for conducting any excavation that results in damage to an
12 underground utility where the damage may endanger life, health, or property shall, immediately
13 after the discovery of the damage, take action to protect the public and property, notify the
14 utility owner, notify the police or fire departments, and take any other actions to minimize the
15 hazards until the arrival of the utility owner's personnel, the police, or the fire department. The
16 excavator shall delay any backfilling in the immediate area of the damaged underground utility
17 until authorized by the utility owner unless it is necessary to prevent injury or property damage
18 to others. Repair of any damage shall be performed by the utility owner or by qualified
19 personnel authorized by the utility owner. (1985, c. 785, s. 1.)
20

21 **§ 87-114. Homeowners.**

22 This Article does not require utility notification before a property owner digs in any area on
23 his own property with nonmechanized equipment nor prior to tilling the soil for agricultural,
24 gardening or landscaping purposes. Mechanized equipment may be used, without utility
25 notification, in any area on the owner's property with the exception of recorded underground
26 utility easements which describes the location of the easement with specificity. (1985, c. 785, s.
27 1.)