

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 114
HOUSE BILL 47

AN ACT TO MAKE VARIOUS AMENDMENTS TO THE LAW REGARDING THE
LICENSING OF ELECTRICAL CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-39 reads as rewritten:

"§ 87-39. Board of Examiners; appointment; terms; ~~chairman;~~ chair; meetings; quorum; principal office; compensation; oath.

(a) The State Board of Examiners of Electrical Contractors shall continue as the State agency responsible for the licensing of persons engaging in electrical contracting within this State, and shall consist of one member from the North Carolina Department of Insurance to be designated by the Commissioner of Insurance; one member who has satisfied the requirements for an unlimited license as defined in G.S. 87-43.3 and who is a representative of the North Carolina Association of Electrical Contractors to be designated by the governing body of that organization; and five members to be appointed by the Governor: one from the faculty of The Greater University of North Carolina who teaches or does research in the field of electrical engineering, one who is serving as a chief electrical inspector of a municipality or county in North Carolina, one who has satisfied the requirements for an unlimited license as defined in G.S. 87-43.3 and who is a representative of the Carolinas Electrical Contractors Association operating a sole proprietorship, partnership or corporation located in North Carolina which is actively engaged in the business of electrical contracting, and two who have no ties with the construction industry and who represent the interest of the public at large. ~~The terms of all members shall be seven years and until their successors are designated or appointed and are qualified. A vacancy occurring during a term shall be filled for the remainder of the unexpired term by the authority which designated or appointed the member to the seat being vacated. All members shall be citizens of North Carolina and reside in North Carolina during their tenure on the Board. No member shall serve two complete consecutive terms.~~

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

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

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

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

(f) Before entering upon the performance of his or her duties hereunder, each member of the Board shall take and file with the Secretary of State an oath in writing to properly perform the duties of his or her office as a member of ~~said~~ the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States."

Sec. 2. G.S. 87-40 reads as rewritten:

"§ 87-40. Secretary-treasurer.

~~The State Board of Examiners of Electrical Contractors shall at its first meeting following appointment of the new member in each year appoint a secretary-treasurer for a period of one year. At its regular first quarter meeting, the Board shall appoint a secretary-treasurer to serve for one year.~~ The secretary-treasurer need not be a member of the Board, and the Board is authorized to employ a full-time secretary-treasurer and such other assistants and to make such other expenditures as may be necessary to the proper performance of the duties of the Board under this Article. The compensation and the duties of the secretary-treasurer shall be fixed by the Board, and the secretary-treasurer shall give bond in such sum and form as the Board shall require for the faithful performance of ~~his duties~~ duty. The secretary-treasurer shall keep a record of the proceedings of said Board and shall receive and account for all moneys derived from the operations of the Board under this Article."

Sec. 3. G.S. 87-43.4 reads as rewritten:

"§ 87-43.4. Residential dwelling license.

There is hereby created a separate license for electrical contractors which shall permit an electrical contractor to engage in electrical contracting projects pertaining to single-family detached residential dwellings. The value of a single project pertaining to a single-family detached residential dwelling shall not be in excess of the maximum value, established in G.S. 87-43.3, of a single project engaged in by a licensee with a license classified as limited. The Board shall establish appropriate standards for this new license. The standards of knowledge, experience and proficiency shall be those appropriate for that license."

Sec. 4. G.S. 87-47 reads as rewritten:

"§ 87-47. ~~Jurisdiction of Board. Penalties imposed by Board; enforcement procedures.~~

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

~~(a1) In the interest of protecting the public, whenever the Board finds that (i) an applicant for certification as a qualified individual, (ii) an applicant for a license, (iii) an applicant for a renewal of a license, (iv) a qualified individual, or (v) a person, partnership, firm or corporation to whom or to which a certification or license has been issued, is guilty of one or more of the following: The following activities are prohibited:~~

- ~~(1) Offering to engage or engaging in electrical contracting without being licensed; licensed.~~
- ~~(2) Selling, transferring, or assigning a license, regardless of whether for a fee; fee.~~
- ~~(3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to offer to engage or to engage in electrical contracting; contracting.~~
- ~~(4) A Being convicted of a crime involving fraud or moral turpitude by conviction thereof; turpitude.~~
- ~~(5) Fraud or misrepresentation in obtaining a certification, in obtaining or renewing a license, or in the practice of electrical contracting; Engaging in fraud or misrepresentation to obtain a certification, obtain or renew a license, or practice electrical contracting.~~
- ~~(6) False Engaging in false or misleading advertising; or advertising.~~
- ~~(7) Malpractice; Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence, gross incompetence, or gross misconduct in the practice of electrical contracting; contracting.~~

~~the Board may refuse or revoke certification as a qualified individual, or may refuse to issue or renew a license.~~

~~(a2) In addition to the administrative action authorized by subdivision (a1) above, the Board may administer one or more of the following penalties if the applicant, licensee, or qualified individual is found to be guilty of one or more of the acts listed in subdivision (a1): has engaged in any activity prohibited under subsection (a1) of this section:~~

- ~~(1) Reprimand; Reprimand.~~
- ~~(2) Suspension from practice for a period not to exceed 12 months; months.~~
- ~~(3) Revocation of the right to serve as a listed qualified individual on any license issued by the Board; Board.~~
- ~~(4) Revocation of license; and license.~~
- ~~(5) Probationary revocation of license or the right to serve as a listed qualified individual on any license issued by the Board, upon conditions set by the Board as the case shall warrant, with warrants, and revocation upon failure to comply with the conditions.~~
- ~~(6) Revocation of certification.~~
- ~~(7) Refusal to certify an applicant or a qualified individual.~~
- ~~(8) Refusal to issue a license to an applicant.~~
- ~~(9) Refusal to renew a license.~~

(a3) In addition to administering a penalty under subsection (a2) of this section, the Board may assess a civil penalty of not more than one thousand dollars (\$1,000) against a licensee or a qualified individual who has engaged in an activity prohibited under subsection (a1) of this section or has violated another provision of this Article or a rule adopted by the Board. Civil penalties collected under this subsection shall be deposited in the General Fund of North Carolina as nontax revenue.

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

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

~~(a3) (a4) The Board shall, in accordance with Chapter 150B of the General Statutes, formulate rules of procedure governing the hearings of charges against applicants, qualified individuals and licensees. Any person person, including the Board and its staff on their own initiative, may prefer charges against any applicant, qualified individual, or licensee, pursuant to this section, and such charges must be sworn to by the complainant and submitted in writing to the Board. The Board may, without a hearing, dismiss charges as unfounded or trivial. The Board may issue a notice of violation based on the charges, to be served by a member of the Board's staff or in accordance with Rule 4 of the Rules of Civil Procedure, against any person, partnership, firm, or corporation for engaging in an activity prohibited under subsection (a1) of this section or for a violation of the provisions of this Article or any rule adopted by the Board. The person or other entity to whom the notice of violation is issued may request a hearing by notifying the Board in writing within 20 days after being served with the notice of violation. Hearings shall be conducted by the Board or an administrative law judge pursuant to Article 3A of Chapter 150B of the General Statutes. In conducting hearings of charges, hearings, the Board may remove the hearings to any county in which the offense, or any part thereof, was committed if in the opinion of the Board the ends of justice or the convenience of witnesses require such removal.~~

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

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

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

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

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

(e) In any case in which the Board is entitled to convene a hearing to consider a ~~charge under this section, imposing any penalty provided for in subsection (a2) or (a3) of this section,~~ the Board may accept an offer in compromise of the charge, whereby the accused shall pay to the Board a penalty of not more than one thousand dollars (\$1,000). ~~All such penalties~~ Penalties collected by the Board ~~under this subsection shall be deposited in the General Fund of North Carolina.~~ Carolina as nontax revenue."

Sec. 5. Notwithstanding the provisions of G.S. 87-39 to the contrary, the terms of the members serving on the Board on the effective date of this section shall, in order to establish a staggered term system, expire upon completion of those terms and the following shall apply for the following appointments: the term of one member who represents the interest of the public at large shall expire June 30, 2004; the term of the member who is a representative of the North Carolina Association of Electrical Contractors shall expire June 30, 2005; the term of the member who is serving as a chief electrical inspector of a municipality or county in North Carolina shall expire June 30, 2006; and the remaining appointments shall expire seven years after their successors' terms expire. Thereafter all terms shall be seven years in accordance with the provisions of G.S. 87-39, as amended by Section 1 of this act.

Members serving terms less than seven years for the purpose of establishing staggered terms under this section are not serving complete terms for purposes of G.S. 87-39(e), as amended by Section 1 of this act, and are eligible for redesignation or appointment to the Board.

Sec. 6. G.S. 87-43.3 reads as rewritten:

"§ 87-43.3. Classification of licenses.

An electrical contracting license shall be issued in one of the following classifications: Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a value not in excess of ~~seventeen thousand five hundred dollars (\$17,500)~~ twenty-five thousand dollars (\$25,000) and on which the equipment or installation in the contract is rated at not more than 600 volts; Intermediate, under which a licensee shall be permitted to engage in a single electrical contracting project of a value not in excess of seventy-five thousand dollars (\$75,000);

Unlimited, under which a licensee shall be permitted to engage in any electrical contracting project regardless of value; and such other special Restricted classifications as the Board may establish from time to time to provide, (i) for the licensing of persons, partnerships, firms or corporations wishing to engage in special restricted electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature, and (ii) for the licensing of persons, partnerships, firms or corporations wishing to engage in electrical contracting work as an incidental part of their primary business, which is a lawful business other than electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature directly in connection with said primary business. The Board may establish appropriate standards for each classification, such standards not to be inconsistent with the provisions of G.S. 87-42."

Sec. 7. Sections 1 and 5 of this act become effective January 1, 1997. Sections 3 and 6 of this act become effective July 1, 1995, and apply to electrical contracting projects commenced on or after that date. The remaining sections of this act become effective December 1, 1995.

In the General Assembly read three times and ratified this the 29th day of May, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives