

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 880
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HOUSE PRINCIPAL CLERK

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HOUSE DRH80277-MDfqa-79 (03/27)

Short Title: Roofing Contractors/Consumer Protection. (Public)

Sponsors: Representative R. Brawley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENACT CONSUMER PROTECTIONS STATUTES RELATED TO ROOFING CONTRACTORS AND TO ESTABLISH REGISTRATION FOR ROOFING CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 75 of the General Statutes is amended by adding a new Article to read:

"Article 8.

"Roofing Contractors.

"§ 75-140. Definitions.

As used in this Article, the terms "nonresident roofing contractor," "public contract," and "roofing contractor" shall be defined the same way as they are in Article 1B of Chapter 87 of the General Statutes.

"§ 75-141. Construction of article.

This Article shall be construed to be in addition to, and not in lieu of, any required licensure of persons for certain professions and trades in this State. This Article shall not be deemed to conflict with or affect the authority of any State or local agency, board, or commission whose duty and authority is to administer or enforce any law or ordinance or to establish, administer, or enforce any policy, rule, qualification, or standard for any trade or profession. For purposes of this Article, a contract for roofing repairs shall not be deemed a contract for a "home solicitation sale" as the term is defined in G.S. 25A-38.

"§ 75-142. Registration required; penalty.

(a) Registration Required. – A person shall not engage in the business, nor act in the capacity of, a roofing contractor within this State, nor may a person bring or maintain any claim, action, suit, or proceeding in any court of this state related to the person's business or capacity as a roofing contractor, without a valid registration obtained pursuant to Article 1B of Chapter 87 of the General Statutes.

(b) Penalty. – The following actions shall be punished as a Class 2 misdemeanor, and the violator shall be subject to a fine of up to five hundred dollars (\$500.00):

(1) Acting as a roofing contractor without obtaining the registration required by subsection (a) of this section prior to doing so.

(2) Acting as a roofing contractor while one's registration is suspended or revoked.

(3) Violating any provision of Article 1B of Chapter 87 of the General Statutes.

(c) Evasion Prohibited. – It shall be unlawful for a person to obtain or attempt to obtain a roofing contractor registration certificate under any other name during any period when the



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1 roofing contractor's registration is suspended or revoked. For purposes of this subsection, the
2 suspension or revocation of the roofing contractor registration of a corporate or other business
3 entity shall be deemed to be a suspension or revocation of the roofing contractor registration of
4 every owner, employee, and affiliate of the entity. Upon conviction of a violation of this
5 subsection, the person shall be guilty of a Class 2 misdemeanor.

6 **"§ 75-143. Prohibited conduct.**

7 A roofing contractor shall not do any of the following:

- 8 (1) Advertise or promise or offer to pay or rebate all or any portion of any
9 insurance deductible as an inducement to the sale of any goods or services.
- 10 (2) Offer or provide any upgraded work, material, or product, grant any
11 allowance or offer any discount against the fees to be charged or paying the
12 consumer or any person directly or indirectly associated with the property
13 any form of compensation, gift, prize, bonus, coupon, credit, referral fee,
14 trade-in or trade-in payment, advertising, or other fee or payment.
- 15 (3) Offer or provide anything of value in exchange for permitting the roofing
16 contractor to display a sign or any other type of advertisement at the
17 consumer's premises.
- 18 (4) Seek to obtain a power of attorney from or on behalf of a consumer, offer to
19 report or adjust a claim on behalf of a consumer, represent or negotiate, or
20 offer or advertise to represent or negotiate, obtain or attempt to obtain an
21 assignment of claims rights, from or on behalf of either a consumer or of an
22 owner or possessor of residential real estate, in violation or on any insurance
23 claim in connection with the repair or replacement of roof systems, or the
24 performance of any other exterior repair, replacement, construction, or
25 reconstruction work.

26 **"§ 75-144. Written contract required; required contents.**

27 A contract for roofing repairs, including a public contract shall be in writing, signed by both
28 parties, and shall do all of the following:

- 29 (1) Include a copy of a repair estimate that contains all of the following
30 disclosures:
 - 31 a. A precise description and location of all damage claimed on the
32 repair estimate.
 - 33 b. An itemized estimate of repair costs, including the cost of raw
34 materials, hourly labor rate, and the number of hours for each item of
35 repair or a unit cost basis.
 - 36 c. If damaged areas are not included on the repair estimate, a
37 specification of those areas and any reason for their exclusion from
38 the repair estimate.
 - 39 d. A statement of whether or not the property was inspected prior to the
40 preparation of the estimate and a description of the nature of that
41 inspection, including a statement of whether or not the roof was
42 physically accessed.
 - 43 e. A statement that the roofing contractor has made no assurances that
44 the claimed loss will be covered by an insurance policy.
 - 45 f. A copy of the roofing contractor's registration certification issued
46 pursuant to Article 1B of Chapter 87 of the General Statutes.
- 47 (2) Include a disclosure that the consumer is responsible for payment for any
48 work performed if the insurer should deny payment or coverage on any part
49 of the loss.
- 50 (3) Be written in the same language as that principally used in any sales
51 presentation, oral or otherwise.

- (4) Designate as the date of the transaction the date on which the consumer actually signs the agreement or offer.
- (5) Contain the name and address of the roofing contractor.
- (6) Contain in immediate proximity to the space reserved for the signature of the buyer in bold face type of a minimum size of 10 points, a statement in substantially the following form:

"You may cancel this contract or transaction at any time prior to midnight of the third business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. See the attached Notice of Cancellation form for an explanation of this right."

- (7) Be accompanied by a completed form in duplicate that is captioned "Notice of Cancellation," which shall be attached to the contract and easily detachable and which shall contain in 10 point bold face type the following information and statements in the same language as that used in the contract:

"Notice of Cancellation
(enter date of transaction)
(date)

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to (name of roofing contractor) at (address of roofing contractor's place of business) at any time prior to midnight on the third business day after you have received such written notice from your insurer. If you cancel, any payments made by you under the contract will be returned to you within 10 business days following receipt by the roofing contractor of your cancellation notice, and any security interest arising out of the transaction will be canceled.

I HEREBY CANCEL THIS TRANSACTION

(date)

(consumer's signature)"

- (8) Include a statement indicating that the roofing contractor shall hold in trust any payment from the property owner until the roofing contractor has delivered roofing materials at the property site or has performed a majority of the roofing work on the property.

"§ 75-145. Consumer's right to cancel contract if not covered by insurance.

(a) Right to Cancel. – A consumer who has entered into a written contract with a roofing contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract at any time prior to midnight of the third business day after the consumer has received written notification from the insurer that all or any part of the claim or contract is not a covered loss under the insurance policy.

1 **(b) Procedure for Cancellation.** – Cancellation shall be evidenced by the consumer
2 giving written notice of cancellation to the roofing contractor at the address stated in the
3 contract. Notice of cancellation, if given by mail, is effective upon deposit into the United
4 States mail, postage prepaid, and properly addressed to the roofing contractor. Notice of
5 cancellation need not take a particular form and is sufficient if it indicates, by any form of
6 written expression, the intention of the consumer not to be bound by the contract.

7 **(c) Refund of Payments to Consumer.** – Within 10 days after a contract for roofing
8 repairs has been cancelled, the roofing contractor shall tender to the consumer any payments,
9 partial payments, or deposits made by the consumer and any note or other evidence of
10 indebtedness. If, however, the roofing contractor has performed any emergency services,
11 acknowledged by the consumer in writing to be necessary to prevent damage to the premises,
12 the roofing contractor is entitled to the reasonable value of such services. Any provision in a
13 contract for roofing repairs that in the event of cancellation requires the payment of any fee for
14 anything except emergency services shall constitute a violation of G.S. 75-1.1 and shall not be
15 enforceable against any consumer who has cancelled a contract under this section.

16 **"§ 75-146. Roofing contractor's agent for service of process.**

17 Every applicant for a roofing contractor's registration who is a nonresident roofing
18 contractor as defined by this act, by signing and filing the application, appoints the Secretary of
19 State as the applicant's true and lawful agent upon whom may be served all lawful process in
20 any action or proceeding against such nonresident roofing contractor for construction projects
21 performed in this State. Such appointment in writing is evidence of the nonresident roofing
22 contractor's consent that any such process against the nonresident roofing contractor which is
23 so served upon the Secretary of State shall be of the same legal force and effect as if served
24 upon the nonresident roofing contractor personally within this State. Registered foreign
25 corporations, registered foreign limited liability companies, foreign limited liability
26 partnerships, and foreign limited partnerships entitled to do business in this State and having a
27 current registered agent and registered address on file in the Office of the Secretary of State
28 need not appoint the Secretary of State as agent for service of process under this section.
29 Within 10 days after service of the summons upon the Secretary of State, notice of such service
30 with the summons and complaint in the action shall be sent to the defendant nonresident
31 roofing contractor at the defendant nonresident roofing contractor's last-known address by
32 registered or certified mail with return receipt requested, and proof of such mailing shall be
33 attached to the summons. The Secretary of State shall keep a record of all process served upon
34 the Secretary of State under this section, showing the day and hour of service. Whenever
35 service of process was made under this section, the court, before entering a default judgment or
36 at any stage of the proceeding, may order such continuance as may be necessary to afford the
37 defendant nonresident roofing contractor reasonable opportunity to defend any action pending
38 against the defendant nonresident roofing contractor.

39 **"§ 75-147. Application for building permits; disclosure of registration certificate number.**

40 **(a) Registration Number to Be Noted on Permits.** – When applying for any permit
41 required by the State or any of its political subdivisions as a prerequisite to engaging in
42 roofing-related work, a roofing contractor shall supply the permit-issuing official the roofing
43 contractor's registration certificate number issued pursuant to Article 1B of Chapter 87 of the
44 General Statutes. That official shall enter a roofing contractor's registration number on the
45 permit. The registrar shall not investigate any roofing project for purposes of verifying roofing
46 contractor registration or permit verification.

47 **(b) Subcontractor Registration Number to Be Noted on Permits.** – A person performing
48 as a roofing contractor on his or her own property, although exempt from the registration
49 requirements of Article 1B of Chapter 87 of the General Statutes, shall, when applying for a
50 permit required for the project, supply the permit-issuing official any roofing contractor
51 registration number, as soon as available, of each roofing subcontractor engaged in roofing

1 services and doing work covered by the permit, if any. That official shall enter each roofing
2 contractor registration number so supplied before inspection of the job.

3 (c) Display of Roofing Contractor Numbers. – A roofing contractor shall display his or
4 her roofing contractor registration number issued pursuant to Article 1B of Chapter 87 of the
5 General Statutes on each commercial vehicle used for roofing services and upon every business
6 sign, card, correspondence, estimate, and contract used to solicit and conduct roofing services
7 in this State.

8 **"§ 75-148. Verification of roofing contractor's registration number to enforcement**
9 **officials and public.**

10 Upon request, the registrar shall verify a roofing contractor registration number to city,
11 county, and State enforcement officials and to the public. The registrar shall establish through
12 the Internet or other technology a verification system or direct access system for confirming
13 roofing contractor registration certificates and status of registration maintained pursuant to
14 Article 1B of Chapter 87 of the General Statutes. The system shall include the notation of each
15 complaint received against an individual roofing contractor, his or her response to each
16 complaint by noting whether the roofing contractor admits or denies the allegation, any court
17 disposition of a complaint, if known, and any conviction for a violation of the provisions of this
18 act. In addition, the system may include a notation for any conviction of a criminal violation in
19 this State, another state, or the United States when disclosed by a criminal history records
20 search on the individual roofing contractor. Disclosure of any information through use of the
21 roofing contractor registration system or information maintained by the registrar shall not be
22 deemed to be an endorsement of any roofing contractor or determination of any facts,
23 qualifications, information, or reputation of any roofing contractor by the registrar, the State,
24 the North Carolina Licensing Board for General Contractors, or any of their respective agents,
25 officers, employees, or assigns.

26 **"§ 75-149. Roofing Contractor Registration Revolving Fund.**

27 There is hereby created in the State Treasury a revolving fund for the North Carolina
28 Licensing Board for General Contractors to be designated the "North Carolina Roofing
29 Contractor Registration Revolving Fund." The fund shall be a continuing fund, not subject to
30 fiscal year limitations, and shall consist of application and renewal fees, late fees,
31 administrative fees, reinstatement fees, and any other monies collected pursuant to the North
32 Carolina Roofing Contractor Registration Act. All monies accruing to the credit of the fund are
33 hereby appropriated and may be budgeted and expended by the North Carolina Licensing
34 Board for General Contractors for implementation and administration of the North Carolina
35 Roofing Contractor Registration Act. Expenditures from the fund shall be made upon warrants
36 issued by the State Treasurer against claims filed as prescribed by law with the Director of
37 State Finance for approval and payment.

38 **"§ 75-150. Violations an unfair and deceptive trade practice.**

39 In addition to the other penalties set forth in this Article, a violation of this Article shall
40 constitute an unfair and deceptive trade practice under G.S. 75-1.1."

41 **SECTION 2.** Chapter 87 of the General Statutes is amended by adding the
42 following new Article to read:

43 "Article 1B.

44 "Roofing Contractors.

45 **"§ 87-15.20. Short title.**

46 This Article shall be known and may be cited as the "North Carolina Roofing Contractor
47 Registration Act."

48 **"§ 87-15.21. Definitions.**

49 The following definitions apply in this Article:

- 50 (1) Board. – The State Licensing Board for General Contractors or any person
51 designated by the Board to administer the provisions of this Article.

- 1 (2) Nonresident roofing contractor. – A roofing contractor who (i) has not
2 established and maintained a place of business as a roofing contractor in this
3 State within the preceding year; (ii) claims residency in another state; and
4 (iii) has not submitted an income tax return as a resident of this State within
5 the preceding year.
- 6 (3) Public contract. – A contract with the State of North Carolina, its political
7 subdivisions, or any board, commission, agency, or department thereof or
8 with any board of county commissioners or with any city council, school
9 board, or with any State or municipal agency or with any other public board,
10 body, commission, or agency authorized to award contracts for the
11 construction or reconstruction of public work. The term includes
12 subcontracts undertaken to perform works covered by the original contract
13 or any part thereof.
- 14 (4) Roofing contractor. – A person, including a subcontractor or nonresident
15 roofing contractor, engaged in the business of commercial or residential
16 roofing services for a fee or who offers to engage in or solicits
17 roofing-related services, including construction, installation, renovation,
18 repair, maintenance, alteration, or waterproofing. The term shall not include
19 a person engaged in the demolition of a structure or the cleanup of
20 construction waste and debris that contains roofing material nor a person
21 working under the direct supervision of a roofing contractor who is hired
22 either as an employee, day laborer, or contract laborer.

23 **"§ 87-15.22. Administration of Article.**

24 (a) The State Licensing Board for General Contractors is authorized to administer and
25 enforce the provisions of this Article. In administering this Article, the Board shall have the
26 following powers and duties:

- 27 (1) To adopt, amend, or repeal rules to carry out the provisions of this Article.
28 (2) To determine the qualifications and fitness of applicants for registration and
29 registration renewal.
- 30 (3) To issue, renew, deny, restrict, suspend, or revoke registrations.
31 (4) To reprimand or otherwise discipline registrants under this Article.
32 (5) To receive and investigate complaints from members of the public.
33 (6) To conduct investigations to determine whether violations of this Article
34 exist or constitute grounds for disciplinary action against registrants under
35 this Article.
- 36 (7) To conduct administrative hearings in accordance with Chapter 150B of the
37 General Statutes.
- 38 (8) To seek injunctive relief through any court of competent jurisdiction for
39 violations of this Article.
- 40 (9) To collect fees required by G.S. 87-15.27 and other monies permitted by law
41 to be paid to the Board.
- 42 (10) To require registrants to file and maintain a certificate of liability insurance.
43 (11) To employ personnel and procure any supplies and equipment as may be
44 necessary to carry out and implement the provisions of this Article, subject
45 to budgetary limitations and funding.

46 **"§ 87-15.23. Registration required; violations; unfair trade practices.**

47 (a) No person shall engage in business or act in the capacity of a roofing contractor
48 within this State or bring or maintain any claim, action, suit, or proceeding in any court of this
49 State related to the person's business or capacity as a roofing contractor unless the person is
50 registered as a roofing contractor as provided by this Article.

1 **(b)** A person who fails to obtain a valid registration before engaging in business as a
2 roofing contractor, a person who acts as a roofing contractor while the roofing contractor's
3 registration is suspended or revoked, or a person who violates any provision of this Article or
4 rules adopted by the Board shall be guilty of a Class 2 misdemeanor, and upon conviction,
5 punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation.

6 **(c)** Failure to comply with the provisions of this section shall constitute a violation of
7 G.S. 75-1.1.

8 **"§ 87-15.24. Exemptions.**

9 **(a)** The provisions of this Article shall not apply to:

10 **(1)** An actual owner of residential or farm property who physically performs, or
11 has employees who perform, roofing services, including construction,
12 installation, renovation, repair, maintenance, alteration, waterproofing, or
13 removal of materials or structures on his or her own dwelling or another
14 structure located on the residential or farm property owned by the person
15 without the assistance of a roofing contractor registered under this Article.

16 **(2)** Any authorized employee or representative of the United States government,
17 this State, or any county, municipality, or other political subdivision of this
18 State performing roofing services.

19 **(3)** Any person who furnishes any fabricated or finished product, material, or
20 article of merchandise that is not incorporated into or attached to real
21 property by the person so as to become affixed to the property.

22 **(b)** Any administrative or governing body with authority to enter into public contracts
23 shall require any person performing roofing services to be registered under this Article for the
24 purpose of submitting or entering into any bid or contract.

25 **"§ 87-15.25. Requirements for registration; issuance.**

26 **(a)** Upon application to the Board and the payment of the required fees, an applicant
27 may be registered under this Article as a roofing contractor if the applicant submits evidence
28 that demonstrates his or her qualifications as prescribed in rules adopted by the Board and
29 meets all of the following qualifications:

30 **(1)** Is at least 18 years of age.

31 **(2)** Is of good moral character as determined by the Board.

32 **(3)** Submits proof to the Board that the applicant has at least five years of
33 experience performing work as a roofing contractor.

34 **(4)** Files with the Board and maintains a certificate of liability insurance
35 executed by a company authorized to do business in this State. The liability
36 insurance shall be in the amount of five hundred thousand dollars
37 (\$500,000). Any insurance company issuing a liability policy to a roofing
38 contractor pursuant to the provisions of this Article shall be required to
39 notify the Board in the event the liability policy is cancelled for any reason
40 or lapses for nonpayment of premiums. All registrations under this Article
41 shall be suspended on the date of the policy cancellation. The Board shall
42 receive proof of active insurance policies before restoring the registration.

43 **(5)** Submit proof to the Board that the applicant has secured workers'
44 compensation coverage as required by Chapter 97 of the General Statutes.

45 **(6)** Any other information the Board deems appropriate in registering an
46 applicant as a roofing contractor.

47 **(b)** When the Board determines that an applicant has met all the requirements for
48 registration, the Board shall issue a registration to the applicant.

49 **"§ 87-15.26. Registration renewal; late renewal; reinstatement.**

50 Every registration issued under this Article shall be renewed on or before June 30 of each
51 year. Any person who desires to continue to practice shall apply for registration renewal and

1 shall submit the required fees. Upon submitting the renewal application, the registrant shall
 2 include a copy of the certificate of liability insurance, unless the Board has a current valid
 3 certificate of insurance on file, and proof of workers' compensation coverage, unless exempt
 4 under Chapter 97 of the General Statutes. A registrant shall have a 30-day grace period after
 5 June 30 to renew the registration without a late fee. After the 30-day grace period, a registration
 6 shall be subject to a late fee. A registration not renewed by August 30 shall be suspended for
 7 failure to renew, and a registration not renewed by January 1 shall be revoked. A registration
 8 that has been revoked may be renewed if (i) the applicant pays the required reinstatement fee,
 9 renewal fee, late fee; (ii) the Board finds that the applicant has not used the registration in a
 10 manner inconsistent with the provisions of this Article or performed roofing services after
 11 notice of revocation; and (iii) the applicant is otherwise eligible for registration under the
 12 provisions of this Article. When necessary, the Board may require a registrant to demonstrate
 13 continued competence as a condition of registration renewal.

14 **"§ 87-15.27. Fees.**

15 The Board may impose the following fees not to exceed the amounts listed below:

16	(1)	<u>Application fee</u>	<u>\$300.00</u>
17	(2)	<u>License renewal</u>	<u>300.00</u>
18	(3)	<u>Late fee</u>	<u>100.00</u>
19	(4)	<u>Reinstatement fee</u>	<u>300.00</u>
20	(5)	<u>Name change</u>	<u>100.00</u>
21	(6)	<u>Corporate license</u>	<u>100.00</u>
22	(7)	<u>Certified copy of indexed information</u>	<u>10.00.</u>

23 **"§ 87-15.28. Change in roofing contractor's name, address, legal service agent, or cease of**
 24 **business; notification of Board.**

25 No later than 10 days after the date of a change in a roofing contractor's name, address, or
 26 legal service agent, or upon a registered roofing contractor ceasing business as a roofing
 27 contractor, the person shall notify the Board of the change on a form provided by the Board. A
 28 name, address, or legal service agent change shall be accompanied by a fee pursuant to G.S.
 29 87-15.27. A person may not change his or her name under an active registration if the change is
 30 associated with a change in the legal status of the business entity other than a change in marital
 31 status. Doing business under a new business name or a change in legal status of a business
 32 requires issuance of a new registration. When a registered roofing contractor ceases to be active
 33 as a roofing contractor, the Board shall suspend the registration of the roofing contractor.

34 **"§ 87-15.29. Business limitations on registration.**

35 The holder of a roofing contractor registration is entitled to engage in the roofing business
 36 within this State pursuant to the provisions of this Article and subject to the following
 37 limitations:

- 38 (1) A roofing contractor's registration number shall be valid and in good
 39 standing at the time of soliciting a project and during subsequent job
 40 performance.
- 41 (2) A roofing contractor's registration number shall be submitted when applying
 42 for any permit issued by the State, or any of its political subdivisions, for
 43 commercial or residential roofing services or projects if a permit is required
 44 by the authority. The registration number shall be written upon each permit
 45 issued.
- 46 (3) A roofing contractor's registration shall not be shared or used by any other
 47 individual or business entity. However, a business firm, partnership,
 48 association, corporation, limited liability company, or other group or
 49 combination thereof acting as a unit may be granted a single roofing
 50 registration number for use by designated roofing contractors acting as
 51 agents for the business entity when the application for registration contained

1 sufficient information on each member, partner, officer, and agent and the
2 registrar issued a single certificate number to those persons as a business
3 unit.

4 (4) Upon any change to the name, address, business entity, or legal service agent
5 of a roofing contractor or upon adjudication by a court of competent
6 jurisdiction for a violation of this Article or an act or omission specified in
7 Article 8 of Chapter 75 of the General Statutes, the Board shall be notified in
8 writing. The holder of a roofing contractor registration shall provide the
9 Board with the reasons or basis for requesting any changes to name, address,
10 business entity, or legal service agent.

11 (5) A roofing contractor shall comply with State laws and local ordinances
12 relating to standards and permits for roofing services and projects and pay
13 any taxes required of the roofing contractor due in this State.

14 **"§ 87-15.30. Index of registrants.**

15 The Board shall maintain in the Board's office in Raleigh, North Carolina, open to public
16 inspection during normal office hours, a complete indexed record of all roofing contractor
17 registrations and information maintained on individual roofing contractors. The Board may
18 dispose of an inactive roofing contractor file after three years. Before disposal and upon written
19 request by any person, the Board shall furnish a certified copy of any information maintained
20 on an individual roofing contractor upon payment of a fee for each annual record. Each
21 certified copy of a roofing contractor's record from the Board shall be received in all courts in
22 this State as prima facie evidence of the facts stated therein. The Board may condense or
23 provide an abstract of a roofing contractor's record for public inspection at any time for
24 purposes of data management so long as a complete record is available for public inspection
25 upon written request.

26 **"§ 87-15.31. Disciplinary action; registrants not in good standing.**

27 (a) The Board may deny, restrict, suspend, or revoke a registration or refuse to issue or
28 renew a registration if a registrant or applicant:

29 (1) Employs the use of fraud, deceit, or misrepresentation in obtaining or
30 attempting to obtain a registration or the renewal of a registration.

31 (2) Practices or attempts to practice roofing services by fraudulent
32 misrepresentation.

33 (3) Commits an act of gross malpractice or incompetence as determined by the
34 Board.

35 (4) Has been convicted of or pled guilty or no contest to a crime that indicates
36 that the person is unfit or incompetent to practice as a roofing contractor or
37 that indicates that the person has deceived or defrauded the public.

38 (5) Has been declared incompetent by a court of competent jurisdiction.

39 (6) Has willfully violated any provision in this Article or any rules adopted by
40 the Board pursuant to this Article.

41 (7) Has had a registration or license revoked or suspended for roofing
42 contractors in another state.

43 (8) Fails to file the required certificate of liability insurance and workers'
44 compensation coverage or to keep the liability insurance or workers'
45 compensation coverage in force.

46 (9) Fails or refuses to submit any taxes due in this State.

47 The Board shall notify the applicant in writing if the Board denies a registration or registration
48 renewal and shall provide the applicant an opportunity to respond to or cure any defect in the
49 written application or renewal for a period of 10 days from the date of the written notification.
50 An applicant aggrieved by a decision of the Board denying a registration or renewal may
51 appeal the decision or the applicant may reapply after a 90-day waiting period if the applicant is

1 otherwise eligible under the provisions of this Article. The application and renewal fees shall
2 not be refundable.

3 (b) The Board may determine that a registrant is not in good standing pursuant to
4 violations of this Article or rules adopted by the Board. If the Board determines that a registrant
5 is not in good standing, the Board shall send a written notice to the person when the person's
6 registration is not in good standing. Any roofing contractor notified by the Board that the
7 roofing contractor's registration is not in good standing shall cease soliciting or entering into
8 new roofing services and projects as of the date of the notification. However, the roofing
9 contractor shall be allowed to complete roofing projects where actual physical work has begun
10 prior to the date of issuance of the notice that the roofing contractor's registration is not in good
11 standing with the Board. If the roofing contractor fails to correct the deficiency specified in the
12 notice by evidence satisfactory to the Board within 30 days of the date of the notice or if the
13 roofing contractor solicits or enters into new roofing services contracts or projects while the
14 roofing contractor's registration is not in good standing or while the registration is suspended or
15 revoked, the roofing contractor shall be in violation of the provisions of this Article. Any
16 registration that is not in good standing for a 60-day period shall be suspended on or after 60
17 days from the date of issuance of the notice to the roofing contractor that roofing contractor's
18 registration is not in good standing. Any registration that does not remain in good standing and
19 is suspended for such cause shall be revoked of or after 90 days from the date of issuance of the
20 notice to the roofing contractor that the registration is not in good standing. The Board shall
21 notify the roofing contractor upon suspension or revocation of roofing contractor's registration
22 for failure to comply with bringing the registration into good standing as required by this
23 Article. The roofing contractor may reinstate the registration to good standing by paying the
24 required fees provided in G.S. 87-15.27 and complying with all other requirements for issuance
25 of a registration in good standing. Any person aggrieved by the decision of the Board to
26 suspend or revoke a registration pursuant to this section may appeal the decision.

27 **"§ 87-15.32. Complaints.**

28 (a) The Board shall read each complaint received and shall enter a notation in the
29 individual roofing contractor's record showing the date that the verified complaint was received
30 and the nature of the complaint. The Board shall notify the roofing contractor against whom the
31 complaint is made, in writing, within five days of the receipt of the written complaint. The
32 roofing contractor shall have 10 days from the date notice is received to respond, in writing, to
33 the Board. If a response to the complaint is received by the Board, whether admitting or
34 denying the basis of the complaint, a copy of both the complaint and the response shall be
35 referred to the North Carolina Attorney General's Consumer Protection Division. If no response
36 is received, the complaint shall still be referred to the North Carolina Attorney General's
37 Consumer Protection Division. In addition, the Board shall enter a notation in the individual
38 roofing contractor's record showing the date that the roofing contractor's response was received,
39 if any, and whether the response admitted or denied the basis of the complaint.

40 (b) After referral of a complaint to the North Carolina Attorney General's Consumer
41 Protection Division, if the roofing contractor is adjudicated by the court for an act, violation, or
42 omission specified in this Article or under Article 8 of Chapter 75 of the General Statutes, or
43 upon a conviction for any violation of the provisions of this Article, the Board, when ordered
44 by the court, shall suspend, revoke, or deny the roofing contractor's registration for the period
45 of time specified by the court, and if the court orders the registration suspended, revoked, or
46 denied, and yet fails to set the term of the suspension, revocation, or denial, the period shall be
47 six months from the date the order is issued.

48 (c) The Board shall not renew, reinstate, or issue a new roofing contractor registration
49 to any person subject to any term of denial, suspension, or revocation pursuant to this section
50 until the term has been completed, and thereafter the person makes application and pays
51 required fees as provided for in this Article.

"§ 87-15.33. Criminal history record checks of applicants for registration.

(a) All applicants for registration shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential. For purposes of this section, a "criminal history record check" is a report resulting from a request made by the Board to the North Carolina Department of Justice for a history of conviction of a crime, whether a misdemeanor or felony, that bears on an applicant's fitness for registration as a roofing contractor.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant.

(c) If an applicant's criminal history record check reveals one or more criminal convictions, the conviction shall not automatically bar registration. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of the conviction.

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.

(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

If after reviewing the factors, the Board determines that any of the grounds set forth in the subdivisions of G.S. 87-15.31 exist, the Board may deny registration of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying registration to an applicant based on information provided in the applicant's criminal history record check."

SECTION 3. Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"§ 114-19.33. Criminal history record checks of applicants for registration as roofing contractors.

The Department of Justice may provide to the State Licensing Board of General Contractors a criminal history record check from the State and National Repositories of Criminal Histories for applicants for registration by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information

1 obtained pursuant to this section confidential. The Department of Justice may charge a fee to
2 offset the cost incurred by the Department of Justice to conduct a criminal history record check
3 under this section, but the fee shall not exceed the actual cost of locating, editing, researching,
4 and retrieving the information."

5 **SECTION 4.** Section 1 of this act becomes effective October 1, 2013. The
6 remainder of this act is effective when it becomes law.