

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 47
Committee Substitute Favorable 3/1/95

Short Title: Amend Electrical Contractors Law/AB.

(Public)

Sponsors:

Referred to:

January 30, 1995

A BILL TO BE ENTITLED

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; 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

1 proprietorship, partnership or corporation located in North Carolina which is actively
2 engaged in the business of electrical contracting, and two who have no ties with the
3 construction industry and who represent the interest of the public at large. ~~The terms of all~~
4 ~~members shall be seven years and until their successors are designated or appointed and are~~
5 ~~qualified. A vacancy occurring during a term shall be filled for the remainder of the unexpired~~
6 ~~term by the authority which designated or appointed the member to the seat being vacated. All~~
7 ~~members shall be citizens of North Carolina and reside in North Carolina during their tenure on~~
8 ~~the Board. No member shall serve two complete consecutive terms.~~

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

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

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

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

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

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

35 "**§ 87-40. Secretary-treasurer.**

36 ~~The State Board of Examiners of Electrical Contractors shall at its first meeting~~
37 ~~following appointment of the new member in each year appoint a secretary-treasurer for a~~
38 ~~period of one year. At its regular first quarter meeting, the Board shall appoint a~~
39 ~~secretary-treasurer to serve for one year.~~ The secretary-treasurer need not be a member of
40 the Board, and the Board is authorized to employ a full-time secretary-treasurer and such
41 other assistants and to make such other expenditures as may be necessary to the proper
42 performance of the duties of the Board under this Article. The compensation and the
43 duties of the secretary-treasurer shall be fixed by the Board, and the secretary-treasurer

1 shall give bond in such sum and form as the Board shall require for the faithful
2 performance of his duties. The secretary-treasurer shall keep a record of the proceedings
3 of said Board and shall receive and account for all moneys derived from the operations of
4 the Board under this Article."

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

6 **"§ 87-43.4. Residential dwelling license.**

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

15 Sec. 4. G.S. 87-44.1 reads as rewritten:

16 **"§ 87-44.1. Continuing Education Courses Required.**

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

33 (b) The Board may establish and assess a nonrefundable course application fee
34 not to exceed one hundred twenty-five dollars (\$125.00) to be paid annually by course
35 sponsors. No course sponsor shall be required to pay more than one annual application
36 fee. The Board also may assess a fee, to be paid by the course sponsor, for each qualified
37 individual completing an approved continuing education course conducted by the
38 sponsor, which fee shall not exceed five dollars (\$5.00) per listed qualified individual.
39 Both fees under this subsection shall be used for the costs to the Board of administering
40 the continuing education program and reviewing proposed continuing education courses."

41 Sec. 5. G.S. 87-47 reads as rewritten:

42 **"§ 87-47. ~~Jurisdiction of Board.~~ Penalties imposed by Board; enforcement procedures.**

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

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

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

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

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

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

1 (a3) In addition to any other penalty, the Board may impose a fine of not more than
2 one thousand dollars (\$1,000) if an applicant, licensee, or qualified individual has
3 engaged in any activity prohibited under subsection (a1) of this section or has violated
4 any provision of this Article or any rule adopted by the Board. All fines collected by the
5 Board pursuant to this subsection shall be deposited in the General Fund of North
6 Carolina.

7 In determining the amount of the fine, the Board shall consider:

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

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

35 (a5) If the person or other entity does not request a hearing under subsection (a4) of
36 this section, the Board shall enter a final decision and may impose penalties under
37 subsection (a2) or (a3) of this section.

38 (a6) A person or other entity failing to pay a fine imposed under subsection (a3) of
39 this section or comply with any other conditions or penalties imposed under subsection
40 (a2) of this section is guilty of a Class 2 misdemeanor.

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

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

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

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

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

21 Sec. 6. G.S. 87-48 reads as rewritten:

22 "**§ 87-48. Penalty for violation of Article; Penalties for persons who are not applicants,**
23 **qualified persons, or licensees; powers of Board to enjoin violation.**

24 (a) Any person, partnership, firm or corporation who ~~shall violate~~ violates any of
25 the provisions of this Article or any rule of the Board adopted pursuant to this Article or
26 who ~~shall engage or offer~~ engages or offers to engage in the business of installing,
27 maintaining, altering or repairing within the State of North Carolina any electric wiring,
28 devices, appliances or equipment without first having obtained a license under the
29 provisions of this Article ~~shall be~~ is guilty of a Class 2 misdemeanor.

30 (a1) Any person, partnership, firm, or corporation who violates any of the
31 provisions of this Article or any rule of the Board adopted pursuant to this Article or who
32 engages or offers to engage in the business of installing, maintaining, altering, or
33 repairing within the State of North Carolina any electric wiring, devices, appliances, or
34 equipment without first having obtained a license under the provisions of this Article is
35 subject to penalties imposed by the Board pursuant to G.S. 87-47.

36 (b) Whenever it ~~shall appear~~ appears to the State Board of Examiners of Electrical
37 Contractors that any person, partnership, firm or corporation has violated, is violating, or
38 threatens to violate any provisions of this Article, the Board may apply to the courts of
39 the State for a restraining order and injunction to restrain such practices. If upon such
40 application the court finds that any provision of this Article is being violated, or a
41 violation thereof is threatened, the court shall issue an order restraining and enjoining
42 such violations, and such relief may be granted regardless of whether criminal ~~prosecution~~
43 prosecution or any penalty procedure under G.S. 87-47 is instituted under the provisions

1 of this Article. The venue for actions brought under this subsection shall be the superior
2 court of any county in which such acts are alleged to have been committed or in the
3 county where the defendants in such action reside."

4 Sec. 7. Notwithstanding the provisions of G.S. 87-39 to the contrary, the terms
5 of the members serving on the Board on the effective date of this section shall, in order to
6 establish a staggered term system, expire upon completion of those terms and the
7 following shall apply for the following appointments: the term of one member who
8 represents the interest of the public at large shall expire June 30, 2004; the term of the
9 member who is a representative of the North Carolina Association of Electrical
10 Contractors shall expire June 30, 2005; the term of the member who is serving as a chief
11 electrical inspector of a municipality or county in North Carolina shall expire June 30,
12 2006; and the remaining appointments shall expire seven years after their successors'
13 terms expire. Thereafter all terms shall be seven years in accordance with the provisions
14 of G.S. 87-39, as amended by Section 1 of this act.

15 Members serving terms less than seven years for the purpose of establishing
16 staggered terms under this section are not serving complete terms for purposes of G.S.
17 87-39(e), as amended by Section 1 of this act, and are eligible for redesignation or
18 appointment to the Board.

19 Sec. 8. Sections 1 and 7 of this act become effective January 1, 1997. Section
20 3 of this act becomes effective July 1, 1995, and applies to electrical contracting projects
21 commenced on or after that date. The remaining sections of this act become effective
22 December 1, 1995.