Chapter 87.

Contractors.

Article 1.

General Contractors.

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

(a) For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is forty thousand dollars ($40,000) or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a "general contractor" engaged in the business of general contracting in the State of North Carolina.

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

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

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

(3) Any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when the building is intended for use by that person after completion. (1925, c. 318, s. 1; 1931, c. 62, s. 1; 1937, c. 429, s. 1; 1949, c. 936; 1953, c. 810; 1971, c. 246, s. 1; 1975, c. 279, s. 1; 1981, c. 783, s. 1; 1989, c. 109, s. 1; c. 653, s. 1; 1991 (Reg. Sess., 1992), c. 840, s. 1; 2011-376, s. 1; 2023-108, s. 2(a).)

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

G.S. 87-1 shall not apply to a licensee under Article 2 or 4 of this Chapter of the General Statutes, G.S. 87-43 shall not apply to a licensee under Article 2 of this Chapter of the General Statutes, and G.S. 87-21(a)(5) shall not apply to a licensee under Article 4 of this Chapter of the General Statutes when the licensee is bidding and contracting directly with the owner of a building project if all of the following apply:

(1) A licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor's rules.

(2) The total amount of the general contracting work so classified does not exceed a percentage of the total bid price pursuant to rules established by the Board.

(3) A licensee with the appropriate license under Article 2 or Article 4 of this Chapter performs all work that falls within the classifications in Article 2 and Article 4 of this Chapter.

(4) The total amount of the work under the classifications in Article 2 of this Chapter does not exceed a percentage of the total bid price pursuant to rules established by the State Board of Examiners of Electrical Contractors.

(5) The total amount of the work under the classifications in Article 4 of this Chapter does not exceed a percentage of the total bid price pursuant to rules established by the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors. (2003-231, s. 1; 2006-241, s. 2; 2006-259, s. 43; 2006-261, s. 3; 2021-122, s. 1; 2022-6, s. 20.9(a).)

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

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

§ 87-2. Licensing Board; organization.

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

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

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

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

The said Board shall, within 30 days after its appointment by the Governor, meet in the City of Raleigh, at a time and place to be designated by the Governor, and organize by electing a chairman, a vice-chairman, and a secretary-treasurer, each to serve for one year. Said Board shall have power to make such bylaws, rules and regulations as it shall deem best, provided the same are not in conflict with the laws of North Carolina. The secretary-treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. The secretary-treasurer need not be a member of the Board, and the Board is hereby authorized to employ a full-time secretary-treasurer, and such other assistants and make such other expenditures as may be necessary to the proper

carrying out of the provisions of this Article. Payment of compensation and reimbursement of expenses of board members shall be governed 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. 6.)

§ 87-5. Seal of Board.

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

§ 87-6. Meetings; notice; quorum.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Anyone seeking to be licensed as a general contractor in this State shall submit an application. Before being entitled to an examination, an applicant shall:

(1) Be at least 18 years of age.
(2) Possess good moral character as determined by the Board.
(3) Provide evidence of financial responsibility as determined by the Board.
(4) Submit the appropriate application fee.
(5) Consent to a criminal background check if required by the Board.

(a1) The Board shall require an applicant to pay the Board or a provider contracted by the Board an examination fee not to exceed one hundred dollars ($100.00). In addition to the costs of any criminal background check, the Board shall also require an applicant to pay the Board a fee not to exceed one hundred twenty-five dollars ($125.00) if the application is for an unlimited license, one hundred dollars ($100.00) if the application is for an intermediate license, or seventy-five dollars ($75.00) if the application is for a limited license. The fees accompanying any application or examination shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to one million five hundred thousand dollars ($1,500,000), excluding the cost of land and any ancillary costs to improve the land; the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to seven hundred fifty thousand dollars ($750,000), excluding the cost of land and any ancillary costs to improve the land. The license certificate shall be classified in accordance with this section.

(a2) In determining an applicant's qualifications for licensure, the Board may utilize a criminal background check. If the Board uses a criminal background check, the provisions of G.S. 93B-8.1 shall apply. The Board shall keep all information obtained from criminal background checks privileged in accordance with applicable State law and federal guidelines, and the information shall be confidential and not a public record under Chapter 132 of the General Statutes.

(a3) Records, papers, and other documentation containing personal information collected or compiled by the Board in connection with an application for examination, licensure, certification, or renewal or reinstatement, or the subsequent update of information shall not be considered public records within the meaning of Chapter 132 of the General Statutes.

(b) An applicant shall identify an individual who has successfully passed an examination approved by the Board who, for purposes of this section, shall be known as the "qualifier" or the "qualifying party" of the applicant. If the qualifier or the qualifying party seeks to take an examination, the examination shall establish (i) the ability of the applicant to make a practical application of the applicant's knowledge of the profession of contracting; (ii) the qualifications of the applicant in reading plans and specifications, knowledge of relevant matters contained in the North Carolina State Building Code, knowledge of estimating costs, construction, ethics, and other similar matters pertaining to the contracting business; (iii) the knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, construction, and liens; and (iv) the applicant's knowledge of requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, and the rules adopted pursuant to that Article. If the qualifier or qualifying party passes the examination, upon review of the application and all relevant information, the Board shall issue a license to the applicant to engage in general contracting in the State of North Carolina, which may be limited as follows:

(1) Building contractor, which shall include private, public, commercial, industrial and residential buildings of all types.

(1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the North Carolina Residential Code adopted by the Residential Code Council pursuant to G.S. 143-138.

(2) Highway contractor.

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

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

b. Water and wastewater treatment facilities and appurtenances thereto.

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

d. Public communication distribution facilities.

e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to

a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies.

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

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

(c) If an applicant is an individual, examination may be taken by his personal appearance for examination, or by the appearance for examination of one or more of his responsible managing employees. If an applicant is a copartnership, a corporation, or any other combination or organization, the examination may be taken by one or more of the responsible managing officers or members of the personnel of the applicant.

(c1) If the qualifier or qualifying party shall cease to be connected with the licensee, then the license shall remain in full force and effect for a period of 90 days. After 90 days, the license shall be invalidated, however the licensee shall be entitled to return to active status pursuant to all relevant statutes and rules promulgated by the Board. However, during the 90-day period described in this subsection, the licensee shall not bid on or undertake any additional contracts from the time such qualifier or qualifying party ceased to be connected with the licensee until the license is reinstated as provided in this Article.

(d) Repealed by Session Laws 2017-10, s. 2.13(a), effective October 1, 2017, and applicable to applications for licensure submitted on or after that date.

(d1) The Board may require a new application if a qualifier or qualifying party requests to take an examination a third or subsequent time.

(e) A license shall expire on the first day of January following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewal applications shall be submitted with a fee not to exceed one hundred twenty-five dollars ($125.00) for an unlimited license, one hundred dollars ($100.00) for an intermediate license, and seventy-five dollars ($75.00) for a limited license. Renewal applications shall be accompanied by evidence of continued financial responsibility and evidence of satisfactory completion of continuing education as required by G.S. 87-10.2. Renewal applications received by the Board on or after the first day of January shall be accompanied by a late payment of ten dollars ($10.00) for each month or part after January.

(f) After a license has been invalid for four years, a licensee shall not be permitted to renew the license, and the license shall be deemed archived. If a licensee wishes to be relicensed subsequent to the archival of the license, the licensee shall fulfill all requirements of a new

applicant as set forth in this section. Archived licensed numbers shall not be renewed. (1925, c. 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. 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. 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, s. 26; 1999-123, s. 1; 1999-379, s. 7; 1999-427, s. 1; 2001-140, s. 1; 2001-296, s. 1; 2005-381, ss. 1, 2, 3; 2006-241, s. 1; 2007-247, s. 3; 2011-376, s. 5; 2017-10, s. 2.13(a); 2019-72, s. 2; 2021-121, s. 1(a); 2022-11, s. 12; 2024-49, s. 5.2(g).)

§ 87-10.1. Licensing of nonresidents.

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.

(2) Foreign corporation. – Defined in G.S. 55-1-40.

(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(4) Foreign limited liability company. – Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.

(5) Foreign partnership. – Either of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

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

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

(d) Delinquents. – If the Secretary of Revenue determines that any nonresident individual or foreign corporation licensed by the board, a member of any foreign limited liability company licensed by the Board, or a partner in any foreign partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of these nonresident individuals and foreign entities and instruct the Board not to renew their certificates of license. The Board shall not renew the certificate of license of such a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that the debt either has been paid or is being paid pursuant to an installment agreement. (1998-162, ss. 4, 10; 2013-157, s. 20.)

§ 87-10.2. Continuing education.

(a) As a condition of license renewal, at least one qualifier or qualifying party of a licensee holding a building contractor, residential contractor, or unclassified contractor license classification shall complete, on an annual basis, eight hours of continuing education approved in

accordance with this section. Where an entity holding a building contractor, residential contractor, or unclassified contractor license classification has multiple qualifiers or qualifying parties, at least one qualifier or qualifying party of the licensee shall complete this requirement for the license to remain valid.

(b) Of the eight hours of annual continuing education required by this section, two hours shall be a mandatory course approved by the Board and the remaining six hours shall be elective courses approved by the Board. Each qualifier or qualifying party shall complete the mandatory course each year. Each qualifier or qualifying party may accumulate and carry forward up to four hours of elective course credit to the next calendar year. The Board shall evaluate and approve:

(1) The content of continuing education courses.
(2) Accreditation of continuing education sponsors and programs.
(3) Computation of credit.
(4) General compliance procedures.
(5) Providers and instructors of continuing education courses.

(c) All Board-approved providers of the mandatory course shall register Board-approved instructors affiliated with the provider to attend a training program established, approved, and administered by the Board to ensure the quality and consistency of mandatory course information. All prospective providers of elective courses shall submit course materials and instructor qualifications for Board evaluation, approval, and accreditation.

(d) Continuing education credit hours may only be given for courses that are taught live by an instructor approved by the Board. To receive credit, a qualifier or qualifying party shall attend and view the live teaching of the course and shall certify this requirement in the manner required by the Board. Only the period of live instruction shall apply to the satisfaction of the continuing education requirement established by this section. Continuing education providers shall certify the attendance of course attendees and shall transmit the qualifier or qualifying party's certification to the Board. For the purposes of this subsection, "live instruction" includes credit hours presented by video or by internet transmission of a live or previously recorded and approved presentation by an approved instructor or instructors provided the presentation is either proctored by the approved provider or contains safeguards as approved by the Board that allow the approved provider to certify that the qualifier or qualifying party has viewed the presentation. The Board shall implement procedures to ensure that qualifiers and qualifying parties may satisfy all of the continuing education requirements of this section through approved internet-based e-learning courses offered by approved providers by internet transmission.

(e) False certification of attendance shall be grounds for the suspension or revocation of the course provider's privilege to provide courses in this State. The Board may take disciplinary action against any licensee, qualifier, or qualifying party for false certification of attendance by that licensee's qualifier or qualifying party at any continuing education course.

(f) The Board shall maintain and distribute to licensees and qualifiers, as appropriate, records of the required educational coursework successfully completed by each qualifier or qualifying party, including the subject matter and the number of hours of each course.

(g) Continuing education requirements shall begin on January 1 of any calendar year and shall be completed by November 30 of that calendar year. The Board shall establish a 90-day grace period following November 30 of each calendar year for any qualifier or qualifying party who has failed to complete the continuing education requirement. Failure of the qualifier or qualifying party of the entity holding a building contractor, residential contractor, or unclassified contractor license classification to satisfy the annual continuing education requirement by the expiration of the grace

period shall result in the license of the entity being invalidated until such time that continuing education and all other licensing requirements have been met.

(h) Any licensee who chooses not to complete the annual continuing education as required by this section may annually request that the Board place the licensee's license in an inactive status and the license shall become invalid for that license year. However, in order for the license to be maintained as inactive, the licensee shall pay the same annual renewal fee paid by active licensees. Should the licensee desire to return to active status, the qualifier or qualifying party of the licensee shall satisfactorily complete the following continuing education requirements prior to seeking reinstatement:

(1) If the licensee seeks reinstatement during the first two years after the license becomes inactive, the qualifier or qualifying party shall complete eight hours of continuing education, including the mandatory course offered during the year of reinstatement.

(2) If the licensee seeks reinstatement more than two years after the license becomes inactive, the qualifier or qualifying party shall complete 16 hours of continuing education, including the mandatory course offered during the year of reinstatement.

(i) The Board shall establish nonrefundable fees for the purpose of administering the continuing education program. The Board may charge the provider of a proposed course a nonrefundable fee not to exceed twenty-five dollars ($25.00) per credit hour for the initial review of the course and a nonrefundable fee of twelve dollars and fifty cents ($12.50) per credit hour for the annual renewal of a course previously approved. The Board shall require an approved course provider to pay a fee, not to exceed five dollars ($5.00) per credit hour per qualifier or qualifying party, for each qualifier or qualifying party completing an approved continuing education course conducted by that provider.

(j) The Board may modify the continuing education requirements set forth in this Article in cases of certified illness or undue hardship as provided for in the rules of the Board.

(k) The Board may adopt rules to implement the requirements of this section. (2019-72, s. 1; 2021-121, s. 1(b); 2025-25, s. 29(3).)

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

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

(a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against any general contractor licensed under this Article. The charges shall be in writing and sworn to by the complainant and submitted to the Board. The charges, unless dismissed without hearing by the

Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes.

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

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

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

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

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

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

(1) Fraud or deceit in obtaining a license.

(2) Gross negligence, incompetency, or misconduct in the practice of general contracting.

(3) Willful violation of any provision of this Article. (1925, c. 318, s. 10; 1937, c. 429, s. 4; 1953, c. 1041, s. 4; 1973, c. 1331, s. 3; 1979, c. 713, s. 3; 1987, c. 827, s. 1; 1991, c. 124, s. 2; 1999-427, s. 2; 2005-381, s. 4.)

§ 87-12. Certificate evidence of license.

The issuance of a certificate of license or limited license by this Board shall be evidence that the person, firm, or corporation named therein is entitled to all the rights and privileges of a licensed or limited licensed general contractor while said license remains unrevoked or unexpired. A licensed general contractor holding a license which qualifies him for work as described in G.S. 87-10 shall be authorized to perform the said work without any additional occupational license, notwithstanding the provisions of any other occupational licensing statute. A license issued by any other occupational licensing board having jurisdiction over any work described in G.S. 87-10 shall qualify such licensee to perform the work for which the license qualifies him without obtaining the license from the General Contractors Licensing Board. Nothing contained herein shall operate to relieve any general contractor from the necessity of compliance with other provisions of the law requiring building permits and construction in accordance with appropriate provisions of the North Carolina State Building Code. (1925, c. 318, s. 11; 1937, c. 429, s. 5; 1975, c. 279, s. 4.)

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

Any person, firm, or corporation not being duly authorized who shall contract for or bid upon the construction of any of the projects or works enumerated in G.S. 87-1, without having first complied with the provisions hereof, or who shall attempt to practice general contracting in the State, except as provided for in this Article, and any person, firm, or corporation presenting or

attempting to file as his own the licensed certificate of another or who shall give false or forged evidence of any kind to the Board or to any member thereof in maintaining a certificate of license or who falsely shall impersonate another or who shall use an expired or revoked certificate of license, or who falsely claims or suggests in connection with any business activities regulated by the Board that a person, firm, or corporation is licensed under this Chapter, and any architect or engineer who recommends to any project owner the award of a contract to anyone not properly licensed under this Article, shall be deemed guilty of a Class 2 misdemeanor. And the Board may, in its discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of any violations of this Article. No architect or engineer shall be guilty of a violation of this section if his recommendation to award a contract is made in reliance upon current written information received by him from the appropriate Contractor Licensing Board of this State which information erroneously indicates that the contractor being recommended for contract award is properly licensed. (1925, c. 318, s. 12; 1931, c. 62, s. 3; 1937, c. 429, s. 6; 1983 (Reg. Sess., 1984), c. 970, s. 2; 1993, c. 539, s. 602; 1994, Ex. Sess., c. 24, s. 14(c); 2019-174, s. 6.)

§ 87-13.1. Board may seek injunctive relief; attorney's fee.

Whenever the Board determines that any person, firm or corporation has violated or is violating any of the provisions of this Article or rules and regulations of the Board promulgated under this Article, the Board may apply to the superior court for a restraining order and injunction to restrain the violation; and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation. When the Board prevails in actions brought under this section, the court shall award the Board its reasonable attorney's fee not to exceed five thousand dollars ($5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation. (1979, c. 713, s. 4; 2003-97, s. 2; 2005-381, s. 5; 2021-121, s. 1(c).)

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

(a) Any person, firm, or corporation, upon making application to the building inspector or other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost is to be forty thousand dollars ($40,000) or more, shall, before being entitled to a permit, satisfy the following:

(1) Furnish satisfactory proof to the inspector or authority that the applicant seeking the permit or another person contracting to superintend or manage the construction is licensed under this Article to carry out or superintend the construction or is exempt from licensure under G.S. 87-1(b). If an applicant claims an exemption from licensure pursuant to G.S. 87-1(b)(2), the applicant for the building permit shall execute a verified affidavit attesting to the following:

a. That the applicant is the owner of the property on which the building is being constructed and, if the applicant is a firm or corporation, that the person submitting the application is an owner, officer, or member of the firm or corporation that owns the property.

b. That the applicant will personally superintend and manage all aspects of the construction of the building and that the duty will not be delegated to any other person not licensed under this Article.

c. That the applicant will be personally present for all inspections required by the North Carolina State Building Code, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

The building inspector or other authority shall transmit a copy of the affidavit to the Board, which shall verify that the applicant was validly entitled to claim the exemption under G.S. 87-1(b)(2). If the Board determines that the applicant was not entitled to claim the exemption under G.S. 87-1(b)(2), the building permit shall be revoked pursuant to G.S. 160D-1115.

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

(3) Redesignated as subsection (a1) by Session Laws 2022-62, s. 8, effective July 8, 2022.

(a1) Any person, firm, or corporation, upon making application to the building inspector or other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building permits pursuant to G.S. 160D-1110 for any improvements for which the combined cost is to be forty thousand dollars ($40,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, shall be required to provide to the building inspector or other authority the name, physical and mailing address, telephone number, facsimile number, and email address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a).

(b) It is unlawful for the building inspector or other authority to issue or allow the issuance of a building permit pursuant to this section unless and until the applicant has furnished evidence that the applicant has complied with subsection (a) of this section. Any building inspector or other authority that is subject to and violates this section is guilty of a Class 3 misdemeanor and subject only to a fine of not more than fifty dollars ($50.00). (1925, c. 318, s. 13; 1931, c. 62, s. 4; 1937, c. 429, s. 7; 1949, c. 934; 1953, c. 809; 1969, c. 1063, s. 6; 1971, c. 246, s. 4; 1981, c. 783, s. 2; 1989, c. 109, s. 2; 1991 (Reg. Sess., 1992), c. 840, s. 2; 1993, c. 539, s. 603; 1994, Ex. Sess., c. 24, s. 14(c); 2011-376, s. 2; 2012-158, s. 4; 2013-117, s. 4; 2022-62, s. 8; 2023-108, s. 2(b).)

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

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

§ 87-15.1. Reciprocity of licensing.

To the extent that other states which provide for the licensing of general contractors provide for similar action, the Board in its discretion may grant licenses of the same or equivalent classification to general contractors licensed by other states, without written examination upon satisfactory proof furnished to the Board that the qualifications of such applicants are equal to the

qualifications of holders of similar licenses in North Carolina and upon payment of the required fee. (1971, c. 246, s. 5.)

§ 87-15.2. Public awareness program.

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

§ 87-15.3. Identity of complaining party confidential.

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

§ 87-15.4. Builder designations created.

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

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

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

Article 1A.

Homeowners Recovery Fund.

§ 87-15.5. Definitions.

The following definitions apply in this Article:

(1) Applicant. – The owner or former owner of a single-family residential dwelling unit who has suffered a reimbursable loss and has filed an application for reimbursement from the Fund.

(2) Board. – The State Licensing Board for General Contractors.

(3) Dishonest conduct. – Fraud or deceit in either of the following:

a. Obtaining a license under Article 1 of Chapter 87 of the General Statutes.

b. The practice of general contracting by a general contractor.

(4) Fund. – The Homeowners Recovery Fund.

(5) General contractor. – A person or other entity who meets any of the following descriptions:
   a. Is licensed under Article 1 of Chapter 87 of the General Statutes.
   b. Fraudulently procures any building permit by presenting the license certificate of a general contractor.
   c. Fraudulently procures any building permit by falsely impersonating a licensed general contractor.

(6) Reimbursable loss. – A monetary loss that meets all of the following requirements:
   a. Results from dishonest or incompetent conduct by a general contractor in constructing or altering a single-family residential dwelling unit.
   b. Is not paid, in whole or in part, by or on behalf of the general contractor whose conduct caused the loss.
   c. Is not covered by a bond, a surety agreement, or an insurance contract.

(7) Single-family residential dwelling unit. – A separately owned residence for use of one or more persons as a housekeeping unit with space for eating, living, and permanent provisions for cooking and sanitation, whether or not attached to other such residences. (1991, c. 547, s. 1.)

§ 87-15.6. Homeowners Recovery Fund.

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

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

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

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

§ 87-15.7. Fund administration.

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

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

(1) To reimburse an applicant's reimbursable loss after approval by the Board.

(2) To purchase insurance to cover reimbursable losses when the Board finds it appropriate to do so.
(3) To invest amounts in the Fund that are not currently needed to reimburse losses and maintain adequate reserves in the manner in which State law allows fiduciaries to invest funds.
(4) To pay the expenses of the Board to administer the Fund, including employment of counsel to prosecute subrogation claims. (1991, c. 547, s. 1.)

§ 87-15.8. Application for reimbursement.

(a) The Board shall prepare a form to be used to apply for reimbursement from the Fund. Only a person whom the Board determines to meet all of the following requirements may be reimbursed from the Fund:
(1) Has suffered a reimbursable loss in the construction or alteration of a single-family residential dwelling unit owned or previously owned by that person.
(2) Did not, directly or indirectly, obtain the building permit in the person's own name or did use a general contractor.
(3) Has exhausted all civil remedies against the general contractor whose conduct caused the loss and, if applicable, the general contractor's estate, and has obtained a judgment against the general contractor that remains unsatisfied. This requirement is waived if the person is prevented from filing suit or obtaining a judgment against the contractor due to the automatic stay provision of section 362 of the U.S. Bankruptcy Code.
(4) Has complied with the applicable rules of the Board.

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

§ 87-15.9. Subrogation for reimbursement made.

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

Article 2.

Plumbing and Heating Contractors.

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

There is created the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors consisting of seven members appointed by the Governor: one member from a school of engineering of the Greater University of North Carolina, one member who is a plumbing or mechanical inspector from a city in North Carolina, one licensed air conditioning contractor, one

licensed plumbing contractor, one licensed heating contractor, one licensed fire sprinkler contractor, and one person who has no tie with the construction industry to represent the interests of the public at large. Members serve for terms of seven years, with the term of one member expiring each year. The term of the member initially appointed to fill the position of licensed fire sprinkler contractor shall commence April 25, 1991. No member appointed after June 7, 1979, shall serve more than one complete consecutive term. Vacancies occurring during a term are filled by appointment of the Governor for the remainder of the unexpired term. (1931, c. 52, s. 1; 1939, c. 224, s. 1; 1971, c. 768, s. 1; 1973, c. 476, s. 128; 1979, c. 834, s. 1; 1989 (Reg. Sess., 1990), c. 842, s. 1; c. 978, s. 1.)

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

The Governor may remove any member of the Board for misconduct, incompetency or neglect of duty. Each member of the Board shall be a resident of this State at the time of his appointment. Each member of the Board shall receive for attending sessions of the Board or of its committees the amount of per diem, and for the time spent in necessary traveling in carrying out the provisions of this Article, and in addition to the per diem compensation, each member shall be reimbursed by the Board from funds in its hands for necessary traveling expenses and for such expenses incurred in carrying out the provisions hereof as shall be approved by a majority of the members of the Board. Payment of compensation and reimbursement of expenses of Board members shall be governed by G.S. 93B-5. (1931, c. 52, s. 2; 1969, c. 445, s. 8; 1979, c. 834, ss. 2, 3.)

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

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

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

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

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

The Board shall keep a record of its proceedings and a register of all applicants for examination, showing the date of each application, the name, age and other qualifications, place of business and residence of each applicant. The books and records of the Board shall be prima facie

evidence of the correctness of the contents thereof. On or before the first day of March of each year the Board shall submit to the Governor a report of its activities for the preceding year, and file with the Secretary of State a copy of such report, together with a statement of receipts and expenditures of the Board attested by the chairman and secretary. (1931, c. 52, s. 5.)

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

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

(1) The word "plumbing" is hereby defined to be the system of pipes, fixtures, apparatus and appurtenances, installed upon the premises, or in a building, to supply water thereto and to convey sewage or other waste therefrom.

(2) The phrase "heating, group number one" shall be deemed and held to be the heating system of a building, which requires the use of high or low pressure steam, vapor or hot water, including all piping, ducts, and mechanical equipment appurtenant thereto, within, adjacent to or connected with a building, for comfort heating.

(3) The phrase "heating, group number two" means an integral system for heating or cooling a building consisting of an assemblage of interacting components producing conditioned air to raise or lower the temperature, and having a mechanical refrigeration capacity in excess of fifteen tons, and which circulates air. Systems installed in single-family residences are included under heating group number three, regardless of size. Holders of a heating group number three license who have heretofore installed systems classified as heating group number two systems may nevertheless service, replace, or make alterations to those installed systems until June 30, 2004.

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

(5) Any person, firm or corporation, who for a valuable consideration, (i) verifies, inspects, evaluates, tests, installs, alters or restores, or offers to verify, inspect, evaluate, test, install, alter or restore, either plumbing, heating group number one, or heating group number two, or heating group number three, or (ii) verifies, inspects, evaluates, tests, lays out, fabricates, installs, alters or restores, or offers to verify, inspect, evaluate, test, lay out, fabricate, install, alter or restore fire sprinklers, or any combination thereof, as defined in this Article, shall be deemed and held to be engaged in the business of plumbing, heating, or fire sprinkler contracting; provided, however, that nothing herein shall be

deemed to restrict the practice of qualified registered professional engineers. Any person who installs a plumbing, heating, or fire sprinkler system on property which at the time of installation was intended for sale or to be used primarily for rental is deemed to be engaged in the business of plumbing, heating, or fire sprinkler contracting without regard to receipt of consideration, unless exempted elsewhere in this Article.

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

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

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

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

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

(11) The phrase "fire sprinkler" means an automatic or manual sprinkler system designed to protect the interior or exterior of a building or structure from fire, and where the primary extinguishing agent is water. These systems include wet pipe and dry pipe systems, preaction systems, water spray systems, foam water sprinkler systems, foam water spray systems, nonfreeze systems, and circulating closed-loop systems. These systems also include the overhead piping, combination standpipes, inside hose connections, thermal systems used in connection with the sprinklers, tanks, and pumps connected to the sprinklers, and controlling valves and devices for actuating an alarm when the system is in operation. This subsection shall not apply to owners of property who are building or improving farm outbuildings. This subsection shall not include water and standpipe systems having no connection with a fire sprinkler system. Nothing herein shall prevent licensed plumbing contractors, utility contractors, or fire sprinkler contractors from installing underground water supplies for fire sprinkler systems.

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

(1) In order to protect the public health, comfort and safety, the Board shall establish two classes of licenses: Class I covering all plumbing, heating, and fire sprinkler systems for all structures, and Class II covering plumbing and heating systems in single-family detached residential dwellings.

(2) Restricted licenses or classifications. –

a. The Board shall establish and issue a fuel piping license for use by persons who do not possess the required Class I or Class II plumbing or heating license, but desire to engage in the contracting or installing of fuel piping extending from an approved fuel source at or near the premises, which piping is used or may be used to supply fuel to any systems, equipment, or appliances located inside the premises.

b. The Board shall establish and issue a limited plumbing contractor license for use by persons who do not possess the required Class I or Class II plumbing license but desire to engage in the contracting or installation, repair, or replacement of either of the following:
    1. Exterior potable water service lines or backflow preventers serving irrigation systems or domestic water service systems of two inch diameter or smaller.
    2. Exterior building sewer or water service piping of two inch diameter or smaller.

c. The Board shall establish and issue:
    1. A State and local government plumbing, heating group number one, heating group number two, or heating group number three technician license for use by persons who do not possess the required plumbing, heating group number one, heating group number two, or heating group number three contractor license but desire to engage in the installation, repair, or replacement of plumbing, heating group number one, heating group number two, or heating group number three solely as an employee of a State or local government agency.
    2. A State and local government plumbing, heating group number one, heating group number two, or heating group number three technician license for use by persons who do possess the required plumbing, heating group number one, heating group number two, or heating group number three contractor license but also desire to engage in the installation, repair, or replacement of plumbing, heating group number one, heating group number two, or heating group number three as an employee of a State or local government agency without listing their contractor license in the name of the State or local government agency. Licensed contractors who obtain the State and local government technician license shall be allowed to contract and perform work under their contractor license only during hours such contractor is not actively employed with the State or local government as a technician, and is on-site carrying out the contracting activity personally. No work can be performed by the State or local government agency in reliance upon the technician license when the licensee is not present.

d. The Board may also establish additional restricted classifications to provide for:
    1. The licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting.
    2. The licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting that is an incidental part of their

primary business, which is a lawful business other than heating, plumbing, or fire sprinkling contracting.

3. The licensing of any person desiring to engage in contracting and installing fuel piping from an approved fuel source on the premises to a point inside the residence.

e. The Board shall establish and issue a Residential Fire Sprinkler Design license for use by persons who hold the appropriate Residential Fire Sprinkler Contractor license to design and install the proper multipurpose fire sprinkler system required by the North Carolina Building Code.

(3) The Board shall prescribe the standard of competence, experience and efficiency to be required of an applicant for license of each class, and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating costs, fundamentals of installation and design, codes, fire hazards, and related subjects as these subjects pertain to plumbing, heating, or fire sprinkler systems. The examination for a fire sprinkler contractor's license shall include such materials as would test the competency of the applicant and which may include the minimum requirements of certification for Level III, subfield of Automatic Sprinkler System Layout, National Institute for Certification of Engineering Technologies (NICET). As a result of the examination, the Board shall issue a certificate of license of the appropriate class in plumbing, heating, or fire sprinkler contracting, and a license shall be obtained, in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof. The obtaining of a license, as required by this Article, shall not of itself authorize the practice of another profession or trade for which a State qualification license is required. Prior to taking the examination, the applicant may be required by the Board to establish that the applicant is at least 18 years of age and is of good moral character. The Board may require experience as a condition of examination, provided that (i) the experience required may not exceed two years, (ii) that up to one-half the experience may be in the form of academic or technical courses of study, and (iii) that registration is not required at the commencement of the period of experience. Evidence that a plumbing or heating licensee has continuously maintained a license in good standing under this Article for a minimum of 10 years shall be accepted as experience for Class II plumbing and heating qualifications.

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

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

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

(c) To Whom Article Applies. – The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article, which includes the installation or replacement of condensing units, air handlers, gas furnaces, package units, boilers, water heaters, heat exchangers, or whole-house water purification or treatment systems, as well as the connection, repair, or alteration to the plumbing drainage, waste, or venting system or the potable water system. The provisions of this Article shall not apply to those who clean plumbing drains or those who make minor repairs or minor replacements to an already installed system of plumbing, heating or air conditioning, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system. Minor repairs or minor replacements within the meaning of this subsection shall include the replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor.

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

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

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

(d1) Expired December 31, 1991.

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

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

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

(h) Expired December 31, 1993.

(i) The provisions of this Article shall not apply to a retailer, as defined in G.S. 105-164.3(229), who, in the ordinary course of business, enters into a transaction with a buyer in which the retailer of a water heater sold for installation in a one- or two-family residential dwelling contracts with a licensee under this Article to provide the installation services for the water heater if the retail sales and installation contract with the buyer is signed by the buyer and the retailer and identifies the licensee and provides the licensee's license number and telephone number. All installation services rendered by the licensee in connection with any such contract must be performed in compliance with all building code, permit, and inspection requirements.

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

(1) No contract or proposal for sale or installation may be presented to or signed by the buyer unless either (i) the specifications for and design of the system have been first reviewed and approved by an employee of the retail seller who is licensed under this Article or (ii) the specifications for and design of the system have been first reviewed and approved by the person licensed under this Article who will install the system, if the installer is not an employee of the retail seller. This subdivision does not prohibit the retailer from providing a written estimate to a potential buyer so long as no contract or proposal for contract is presented or signed prior to the review and approval required by this subsection.

(2) The person installing the system is licensed under this Article.

(3) The contract for sale and for installation is signed by the buyer, by an authorized representative of the retail seller, and by the licensed contractor and contains the contractor's name, license number, and telephone number and the license number of the person approving the system design specifications.

(4) Installation services are performed in compliance with all applicable building codes, manufacturer's installation instructions, and permit and inspection requirements.

(5) The retailer provides, in addition to any other warranties it may offer with respect to the system itself, a warranty for a period of at least one year for any defects in installation.

(k) The provisions of subsections (i) and (j) of this section shall not apply to a system meeting the definition of subdivision (a)(11) of this section.

(*l*) The provisions of this Article do not apply to any of the following persons to the extent the person does not claim to be a plumbing or heating contractor or is not acting in the capacity of a plumbing or heating contractor in the course of the person's duties:

(1) A home inspector licensed under Article 9F of Chapter 143 of the General Statutes.

(2) A certified Code-enforcement official licensed under Article 9C of Chapter 143 of the General Statutes.

(3) A residential energy services network (RESNET) certified home energy rater. (1931, c. 52, s. 6; 1939, c. 224, s. 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. 1204; 1979, c. 834, ss. 4-7; 1981, c. 332, s. 1; 1983, c. 569, ss. 1, 2; 1989, c. 623, s. 1; 1989 (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. 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; 2003-31, ss. 1-3.1; 2004-203, s. 69; 2005-131, s. 1; 2005-289, s. 3; 2013-332, s. 1; 2016-105, s. 2; 2017-15, s. 1; 2019-169, s. 3.1(c); 2019-174, s. 8; 2022-75, s. 12; 2023-91, s. 3.)

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

All persons, firms, or corporations engaged in the business of either plumbing or heating contracting, or both, shall pay an annual license fee not to exceed one hundred fifty dollars ($150.00). The annual fee for a piping or restricted classification license shall not exceed that for a plumbing or heating license. All persons, firms, or corporations engaged in the business of fire sprinkler contracting shall pay an initial application fee not to exceed seventy-five dollars ($75.00) and an annual license fee not to exceed three hundred dollars ($300.00). In the event the Board refuses to license an applicant, the license fee deposited shall be returned by the Board to the applicant. All licenses shall expire on the last day of December in each year following their issuance or renewal. Persons who obtain a license by passing an examination on or after October 1 of any year may receive a license for the remainder of the year by paying one-half of the usual license fee for that classification of license. It shall be the duty of the secretary and treasurer to send by United States mail or email to every licensee registered with the Board, notice to the licensee's last known address reflected on the records of the Board of the amount of fee required for renewal of license, the notice to be mailed at least one month in advance of the expiration of the license. The Board may require payment of all unpaid annual fees before reissuing a license. In the event of failure on the part of any person, firm or corporation to renew the license certificate annually and

pay the required fee during the month of January in each year, the Board shall increase the license fee by twenty-five dollars ($25.00) to cover any additional expense associated with late renewal. The Board shall require reexamination upon failure of a licensee to renew license within three years after expiration. The Board may adopt regulations requiring attendance at programs of continuing education as a condition of license renewal. A licensee employed full time as a local government plumbing, heating, or mechanical inspector and holding qualifications from the Code Officials Qualifications Board may renew the license at a fee not to exceed twenty-five dollars ($25.00). (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; 1989, c. 623, s. 2; 1989 (Reg. Sess., 1990), c. 842, s. 4; 1997-382, s. 2; 2001-270, s. 3; 2005-131, s. 2; 2025-25, s. 29(1).)

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

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

§ 87-22.2. Licensing of nonresidents.

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

(1) Delinquent income tax debt. – The amount of income tax due as stated in a final notice of assessment issued to a taxpayer by the Secretary of Revenue when the taxpayer no longer has the right to contest the amount.

(2) Foreign corporation. – Defined in G.S. 55-1-40.

(3) Foreign entity. – A foreign corporation, a foreign limited liability company, or a foreign partnership.

(4) Foreign limited liability company. – Has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.

(5) Foreign partnership. – Either of the following that does not have a permanent place of business in this State:

a. A foreign limited partnership as defined in G.S. 59-102.

b. A general partnership formed under the laws of a jurisdiction other than this State.

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

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

(d) Delinquents. – If the Secretary of Revenue determines that any nonresident individual or foreign corporation licensed by the Board, a member of any foreign limited liability company licensed by the Board, or a partner in any foreign partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of these nonresident individuals and foreign entities and instruct the Board not to renew their licenses. The Board shall not renew the license of such a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that the debt either has been paid or is being paid pursuant to an installment agreement. (1998-162, ss. 5, 11; 2013-157, s. 21.)

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

(a) The Board shall have power to revoke or suspend the license of or order the reprimand or probation of any plumbing, heating, or fire sprinkler contractor, or any combination thereof, who is guilty of any fraud or deceit in obtaining or renewing a license, or who fails to comply with any provision or requirement of this Article, or the rules adopted by the Board, or for gross negligence, incompetency, or misconduct, in the practice of or in carrying on the business of a plumbing, heating, or fire sprinkler contractor, or any combination thereof, as defined in this Article. Any person may prefer charges of such fraud, deceit, gross negligence, incompetency, misconduct, or failure to comply with any provision or requirement of this Article, or the rules of the Board, against any plumbing, heating, or fire sprinkler contractor, or any combination thereof, who is licensed under the provisions of this Article. All of the charges shall be in writing and investigated by the Board. Any proceedings on the charges shall be carried out by the Board in accordance with the provisions of Chapter 150B of the General Statutes.

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

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

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

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

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

Any person, firm or corporation who shall engage in or offer to engage in, or carry on the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof, as defined in G.S. 87-21, without first having been licensed to engage in such business, or businesses, as required by the provisions of this Article; or any person, firm or corporation holding a limited plumbing or heating license under the provisions of this Article who shall practice or offer to practice or carry on any type of plumbing or heating contracting not authorized by said limited license; or any person, firm or corporation who shall give false or forged evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall falsely impersonate any

other practitioner of like or different name, or who shall use an expired or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a Class 2 misdemeanor. An employee in the course of his work as a bona fide employee of a licensee of the Board shall not be construed to have engaged in the business of plumbing, heating, or fire sprinkler contracting, as the case may be. (1931, c. 52, s. 10; 1939, c. 224, s. 6; 1989, c. 623, s. 4; 1989 (Reg. Sess., 1990), c. 842, s. 7; 1993, c. 539, s. 604; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 87-25.1. Board may seek injunctive relief.

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

(b) When the Board prevails in actions brought under this section, the court shall award the Board its reasonable attorney's fee not to exceed five thousand dollars ($5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation.

(c) Examination applicants who have failed to pay a court award pursuant to subsection (b) of this section shall not be allowed to take any examination offered by the Board until the award has been satisfied. (1979, c. 834, s. 11; 2013-332, s. 2; 2024-49, s. 3.1(a).)

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

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

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

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

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

(e) It shall be necessary that persons licensed in accordance with the provisions of this section shall exercise general supervision over contracts to completion.

(f) Nothing in this section shall be deemed to limit the ability of a licensee under this Article who is regularly employed by a local board of education to maintain an individual license

or to contract or perform work during the hours the licensee is off-duty from the regular employer. (1931, c. 52, s. 12; 1939, c. 224, s. 8; 1957, c. 815; 1967, c. 770, s. 7; 2016-105, s. 3.)

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

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

§ 87-27.1. Public awareness program.

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

Article 3.

Tile Contractors.

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

Article 4.

Electrical Contractors.

§ 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 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.

(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 chair. The chair shall be required to call a special meeting upon written request by two members of the Board. 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 the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States. (1937, c. 87, s. 1; 1969, c. 669, s. 1; 1979, c. 904, ss. 1-3; 1989, c. 709, s. 1; 1995, c. 114, s. 1.)

§ 87-40. Secretary-treasurer.

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 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. (1937, c. 87, ss. 2, 3; 1969, c. 669, s. 1; 1995, c. 114, s. 2.)

§ 87-41. Seal of Board.

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

§ 87-41.1. Definitions.

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

(1) A "qualified individual" is an individual who is qualified in a specific license classification as a result of having taken and passed the qualifying examination required by this Article for such a classification and who has been certified as such by the Board pursuant to G.S. 87-42.

(2) A "listed qualified individual" is a qualified individual whose name is listed on a license issued by the Board. A listed qualified individual has the specific duty and authority to supervise and direct electrical contracting done by or in the name of a licensee of the Board on whose license the qualified individual is so listed.

(3) A licensee of the Board is a person listed pursuant to subsection (2), or a partnership, firm or corporation that regularly employs at least one listed qualified individual and which has been issued a license by the Board. (1989, c. 709, s. 2.)

§ 87-42. Duties and powers of Board.

In order to protect the life, health and property of the public, the State Board of Examiners of Electrical Contractors shall provide for the written examination of all applicants for certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all applications for certification as a qualified individual and all applications for licenses to be issued under this Article, shall examine all applicants to determine that each has met the requirements for certification and shall discharge all duties enumerated in this Article. Applicants for certification as a qualified individual must be at least 18 years of age and shall be required to demonstrate to the satisfaction of the Board their good character and adequate technical and practical knowledge concerning the safe and proper installation of electrical work and equipment. The examination to be given for this purpose shall include, but not be limited to, the appropriate provisions of the National Electrical Code as incorporated in the North Carolina State Building Code, the analysis of electrical plans and specifications, estimating of electrical installations, and the fundamentals of the installation of electrical work and equipment. Certification of qualified individuals shall be issued in the same classifications as provided in this Article for license classifications. The Board shall prescribe the standards of knowledge, experience and proficiency to be required of qualified individuals, which may vary for the various license classifications. The Board shall issue certifications and licenses to all applicants meeting the requirements of this Article and of the Board upon the receipt of the fees prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary to the performance of its duties and for the effective implementation of the provisions of this Article. The Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the Chairman for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor. The Board shall have the power to acquire, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board. The Board shall keep minutes of all its proceedings and shall keep an accurate record of receipts and disbursements which shall be audited at the close of each fiscal year by a certified public accountant, and the audit report shall be filed with the State of North Carolina in accordance with Chapter 93B of the General Statutes. (1937, c. 87, s. 4; 1969, c. 669, s. 1; 1989, c. 709, s. 3; 1993, c. 539, s. 605; 1994, Ex. Sess., c. 24, s. 14(c); 2001-159, s. 1.)

§ 87-43. Electrical contracting defined; licenses.

Electrical contracting shall be defined as engaging or offering to engage in the business of installing, maintaining, altering or repairing any electric work, wiring, devices, appliances or equipment. No person, partnership, firm or corporation shall engage, or offer to engage, in the business of electrical contracting within the State of North Carolina without having received a

license in the applicable classification described in G.S. 87-43.3 from the State Board of Examiners of Electrical Contractors in compliance with the provisions of this Article, regardless of whether the offer was made or the work was performed by a qualified individual as defined in G.S. 87-41.1. In each separate place of business operated by an electrical contractor at least one listed qualified individual shall be regularly on active duty and shall have the specific duty and authority to supervise and direct all electrical wiring or electrical installation work done or made by such separate place of business. Every person, partnership, firm or corporation engaging in the business of electrical contracting shall display a current certificate of license in his principal place of business and in each branch place of business which he operates. Licenses issued hereunder shall be signed by the chairman and the secretary-treasurer of the Board, under the seal of the Board. A registry of all licenses issued to electrical contractors shall be kept by the secretary-treasurer of the Board, and said registry shall be open for public inspection during ordinary business hours. (1937, c. 87, s. 5; 1951, c. 650, ss. 1-2 1/2; 1953, c. 595; 1961, c. 1165; 1969, c. 669, s. 1; 1989, c. 709, s. 4.)

§ 87-43.1. Exceptions.

The provisions of this Article shall not apply:

(1) To the installation, construction or maintenance of facilities for providing electric service to the public ahead of the point of delivery of electric service to the customer.

(2) To the installation, construction, maintenance, or repair of telephone, telegraph, or signal systems, by public utilities, or their corporate affiliates, when said work pertains to the services furnished by said public utilities.

(3) To any person in the course of his work as a bona fide employee of a licensee of this Board.

(4) To the installation, construction or maintenance of electrical equipment and wiring for temporary use by contractors in connection with the work of construction.

(5) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by persons, firms or corporations, upon their own property when such property is not intended at the time for rent, lease, sale or gift, who regularly employ one or more electricians or mechanics for the purpose of installing, maintaining, altering or repairing of electrical wiring, devices or equipment used for the conducting of the business of said persons, firms or corporations.

(5a) To any person when that person is installing, maintaining, altering or repairing electric work, wiring, devices, appliances or equipment upon that person's own property and for that person's own benefit when such property is not intended at the time for rent, lease, or sale. This subdivision shall not be construed to limit the ability of local boards of education, hospitals as defined in G.S. 131E-76, or nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), to employ personnel who are licensed under this Article to perform maintenance and repairs on property owned or in the possession of that local board of education, hospital, or nonprofit organization.

(6) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by State institutions and private educational institutions which maintain a private electrical department.

(7) To the replacement of lamps and fuses and to the installation and servicing of cord-connected appliances and equipment connected by means of attachment plug-in devices to suitable receptacles which have been permanently installed or to the servicing of appliances connected to a permanently installed junction box. This exception does not apply to permanently installed receptacles or to the installation of the junction box.

(8) To the bonding of corrugated stainless steel tubing (CSST) gas piping systems as required under Section 310.1.1 of the North Carolina Fuel Gas Code.

(9) To the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under this Article. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subdivision applies to all existing installations.

(10) To the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch.

(11) To the installation, construction, maintenance, or repair of electrical wiring or devices, appliances, or equipment by a person who is an on-site wastewater contractor certified pursuant to Article 5 of Chapter 90A of the General Statutes when the contractor is wiring the wastewater pump to the control panel for the wastewater system. (1937, c. 87, s. 5; 1951, c. 650, ss. 1-21/2; 1953, c. 595; 1961, c. 1165; 1969, c. 669, s. 1; 1979, c. 904, ss. 4-7; 2013-36, s. 1; 2013-58, s. 1; 2014-120, s. 42(a); 2019-78, s. 1; 2023-90, s. 9; 2024-49, s. 3.3.)

§ 87-43.2. Issuance of license.

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

(1) At least one listed qualified individual shall be regularly employed by the applicant at each separate place of business to have the specific duty and authority to supervise and direct electrical contracting done by or in the name of the licensee;

(2) An application is filed with the Board which contains a statement of ownership, states the names and official positions of all employees who are listed qualified

individuals and provides such other information as the Board may reasonably require;

(3) The applicant, through an authorized officer or owner, shall agree in writing to report to the Board within five days any additions to or loss of the employment of listed qualified individuals; and

(4) The applicant furnishes, upon the initial application for a license, a bonding ability statement completed by a bonding company licensed to do business in North Carolina, verifying the applicant's ability to furnish performance bonds for electrical contracting projects having a value in excess of the project value limit for a limited license established pursuant to G.S. 87-43.3 for the intermediate license classification and in excess of the project value limit for an intermediate license established pursuant to G.S. 87-43.3 for the unlimited license classification. In lieu of furnishing the bonding ability statement, the applicant may submit for evaluation and specific approval of the Board other information certifying the adequacy of the applicant's financial ability to engage in projects of the license classification applied for. The bonding ability statement or other financial information must be submitted in the same name as the license to be issued. If the firm for which a license application is filed is owned by a sole proprietor, the bonding ability statement or other financial information may be furnished in either the firm name or the name of the proprietor. However, if the application is submitted in the name of a sole proprietor, the applicant shall submit information verifying that the person in whose name the application is made is in fact the sole proprietor of the firm.

(5) Repealed by Session Laws 1989, c. 709, s. 5.

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

(c) Nothing in this Article shall be deemed to limit the ability of a licensee under this Article who is regularly employed by a local board of education, a hospital as defined in G.S. 131E-76, or a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) to maintain an individual license or to contract or perform work at the direction of the local board of education, hospital, or nonprofit organization for any building or facility owned or in possession of that local board of education, hospital, or nonprofit organization, regardless of whether all or a portion of that building or facility is being leased or otherwise provided for another entity or event. (1937, c. 87, s. 5; 1951, c. 650, ss. 1-2½; 1953, c. 595; 1961, c. 1165; 1969, c. 669, s. 1; 1989, c. 709, s. 5; 1995, c. 509, s. 135.2(e); 2007-247, s. 2; 2019-78, s. 2.)

§ 87-43.3. Classification of licenses.

(a) An electrical contracting license shall be issued in one of the following classifications:

(1) Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of one hundred thousand dollars ($100,000) and on which the equipment

or installation in the contract is rated at not more than 1,000 volts. The limited classification and any special restricted classifications shall require no more than 3,000 hours of experience, of which, no less than 2,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(2) Intermediate, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of two hundred thousand dollars ($200,000). The intermediate classification shall require no more than 5,750 hours of experience, of which, no less than 5,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(3) Unlimited, under which a licensee shall be permitted to engage in any electrical contracting project regardless of value. The unlimited classification shall require no more than 9,000 hours of experience, of which, no less than 8,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(b) An electrical contracting license shall be issued in 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.

(c) The Board may establish appropriate standards for each classification, such standards not to be inconsistent with the provisions of G.S. 87-42. The Board may, by rule, modify the project value limitations up to the maximum amounts set forth in this section for limited and intermediate licenses no more than once every three years based upon an increase or decrease in the project cost index for electrical projects in this State. (1969, c. 669, s. 1; 1973, c. 1228, s. 1; 1975, c. 29; 1989, c. 709, s. 6; 1995, c. 114, s. 6; 2007-247, s. 1; 2022-11, s. 1(a); 2024-49, s. 3.2(a).)

§ 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. (1973, c. 1343; 1995, c. 114, s. 3.)

§ 87-44. Fees; license term.

The Board shall collect a fee from each applicant before granting or renewing a license under the provisions of this Article; the annual license fee for the limited classification shall not exceed one hundred dollars ($100.00) for each principal and each branch place of business; the annual

license fee for the intermediate classification shall not exceed one hundred fifty dollars ($150.00) for each principal and each branch place of business; the annual license fee for the unlimited classification shall not exceed two hundred dollars ($200.00) for each principal and each branch place of business; and the annual license fee for the special restricted classifications and for the single-family detached residential dwelling license shall not exceed one hundred dollars ($100.00) for each principal and each branch place of business.

The Board shall establish a system for the renewal of licenses with varying expiration dates. However, all licenses issued by the Board shall expire one year after the date of issuance. Licenses shall be renewed by the Board, subject to G.S. 87-44.1 and G.S. 87-47, after receipt and evaluation of a renewal application from a licensee and the payment of the required fee. The application shall be upon a form provided by the Board and shall require such information as the Board may prescribe. Renewal applications and fees shall be due 30 days prior to the license expiration date.

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

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

§ 87-44.1. Continuing education courses required.

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

§ 87-44.2. Licensing of nonresidents.

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

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

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

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

(d) Delinquents. – If the Secretary of Revenue determines that any nonresident individual or foreign corporation licensed by the Board, a member of any foreign limited liability company licensed by the Board, or a partner in any foreign partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of Revenue may notify the Board of these nonresident individuals and foreign entities and instruct the Board not to renew their licenses. The Board shall not renew the license of such a nonresident individual or foreign entity identified by the Secretary of Revenue unless the Board receives a written statement from the Secretary that the debt either has been paid or is being paid pursuant to an installment agreement. (1998-162, ss. 6, 12; 2013-157, s. 22.)

§ 87-45. Funds.

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

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

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

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

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

(a1) The following activities are prohibited:

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

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

(1) Reprimand.
(2) Suspension from practice for a period not to exceed 12 months.
(3) Revocation of the right to serve as a listed qualified individual on any license issued by the Board.
(4) Revocation of 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 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. The clear proceeds of civil penalties collected under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

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.

(a4) Any person, including the Board and its staff on their own initiative, may prefer charges pursuant to this section, and such charges must be 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, 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 charges and notices of violation pursuant to this section. This record shall include, for each person, partnership, firm, and corporation charged or notified of a violation, the date and nature of each 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 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). The clear proceeds of penalties collected by the Board under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1969, c. 669, s. 1; 1973, c. 1331, s. 3; 1979, c. 904, s. 11; 1989, c. 709, s. 9; 1995, c. 114, s. 4; 1998-215, s. 132.)

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

(a) Any person, partnership, firm, or corporation that violates any of the provisions of this Article or that engages or offers to engage in the business of installing, maintaining, altering, or repairing within North Carolina any electric wiring, devices, appliances, or equipment without first having obtained a license under the provisions of this Article is guilty of a Class 2 misdemeanor.

(b) Whenever it shall appear to the State Board of Examiners of Electrical Contractors that any person, partnership, firm or corporation has violated, is violating, or threatens to violate any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain such practices. If upon such application the court finds that any provision of this Article is being violated, or a violation thereof is threatened, the court shall issue an order restraining and enjoining such violations, and such relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this Article. The venue for actions brought under this subsection shall be the superior court of any county in which such acts are alleged to have been committed or in the county where the defendants in such action reside.

(c) When the Board prevails in actions brought under this section, the court shall award the Board its reasonable attorney's fee not to exceed five thousand dollars ($5,000) plus the costs associated with obtaining the relief and the investigation and prosecution of the violation.

(d) Examination applicants who have failed to pay a court award pursuant to subsection (c) of this section shall not be allowed to take any examination offered by the Board until the award has been satisfied. (1937, c. 87, s. 13; 1969, c. 669, s. 1; 1979, c. 904, s. 14; 1989, c. 709, s. 10; 1993, c. 539, s. 606; 1994, Ex. Sess., c. 24, s. 14(c); 2021-84, s. 5; 2024-49, s. 3.1(b).)

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

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

§ 87-50. Reciprocity.

To the extent that other states which provide for the licensing of electrical contractors provide for similar action, the Board may grant licenses of the same or equivalent classification to electrical contractors licensed by other states without written examination upon satisfactory proof furnished

to the Board that the qualifications of such applicants are equal to the qualifications of holders of similar licenses in North Carolina and upon payment of the required fee. (1969, c. 669, s. 1.)

§ 87-50.1. Public awareness program.

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

§ 87-51. Severability of provisions.

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

Article 5.

Refrigeration Contractors.

§ 87-52. State Board of Refrigeration Contractors; appointment; term of office.

(a) For the purpose of carrying out the provisions of this Article, the State Board of Refrigeration Contractors is created, consisting of seven members appointed by the Governor to serve seven-year staggered terms. The Board shall consist of:

(1) One member who is a wholesaler or a manufacturer of refrigeration equipment.
(2) One member from an accredited engineering school located in this State.
(3) One member from the field of public health with an environmental science background from an accredited college or university located in this State.
(4) Two members who are licensed refrigeration contractors.
(5) One member who has no ties with the construction industry to represent the interest of the public at large.
(6) One member with an engineering background in refrigeration.

(b) The term of office of one member shall expire each year. Vacancies occurring during a term shall be filled by appointment of the Governor for the unexpired term. Whenever the term "Board" is used in this Article, it means the State Board of Refrigeration Contractors. No Board member shall serve more than one complete consecutive term. (1955, c. 912, s. 1; 1959, c. 1206, s. 2; 1973, c. 476, s. 128; 1979, c. 712, s. 1; 1995, c. 376, s. 1; 2017-10, s. 2.7(a).)

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

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

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

The Board shall within 30 days after its appointment meet in the City of Raleigh and organize, and shall elect a chairman and secretary and treasurer, each to serve for one year. Thereafter said officer shall be elected annually. The secretary and treasurer shall give bond approved by the Board for the faithful performance of his duties, in such sum as the Board may, from time to time, determine. The Board shall have a common seal, shall formulate rules to govern its actions, and is

hereby authorized to employ such personnel as it may deem necessary to carry out the provisions of this Article. (1955, c. 912, s. 3.)

§ 87-55. Regular and special meetings; quorum.

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

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

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

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

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

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

(a) The provisions of this Article shall not repeal any wording, phrase, or paragraph as set forth in Article 2 of this Chapter. The following definitions apply in this Article:

(1) Commercial refrigeration contractor. – All persons, firms, or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto.

(2) Industrial refrigeration contractor. – All persons, firms, or corporations engaged in commercial refrigeration contracting with the use of ammonia as a refrigerant gas.

(3) Refrigeration service contractor. – All persons, firms, or corporations engaged in the maintenance, servicing, and repairing of refrigerating machinery, equipment, devices, and components relating thereto.

(4) Transport refrigeration contractor. – All persons, firms, or corporations engaged in the business of installation, maintenance, repairing, and servicing of transport refrigeration.

(a1) This Article shall not apply to any of the following:

(1) The installation of self-contained commercial refrigeration units equipped with an Original Equipment Manufacturer (OEM) molded plug that does not require the opening of service valves.

(2) The installation and servicing of domestic household self-contained refrigeration appliances equipped with an OEM molded plug connected to

suitable receptacles which have been permanently installed and do not require the opening of service valves.

(3) Employees of persons, firms, or corporations or persons, firms or corporations, not engaged in refrigeration contracting as herein defined, that install, maintain and service their own refrigerating machinery, equipment and devices.

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

(5) The replacement of lamps, fuses, and door gaskets.

(b) The Board shall establish and issue the following licenses:

(1) A Class I license shall be required for any person engaged in the business of commercial refrigeration contracting.

(2) A Class II license shall be required for any person engaged in the business of industrial refrigeration contracting.

(3) A Class III license shall be required for any person engaged in the business of refrigeration service contracting.

(4) A Class IV license shall be required for any person engaged in the business of transport refrigeration contracting.

(b1) Repealed by Session Laws 2017-10, s. 2.7(a), effective January 1, 2018, and applicable to applications submitted and Board membership appointments on or after that date.

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

(d) In order to protect the public health, comfort and safety, the Board shall prescribe the standard of experience to be required of an applicant for license and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design as they pertain to refrigeration; and as a result of the examination, the Board shall issue a certificate of license in refrigeration to applicants who pass the required examination and a license shall be obtained in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in the business of refrigeration contracting. The Board shall prescribe standards for all license classifications.

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

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

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

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

(h) A transport refrigeration contractor having an established place of business doing transport refrigeration contracting prior to October 1, 1995, shall be granted a transport

refrigeration contracting specialty license, without examination, if the person produces satisfactory evidence the person is engaged in transport refrigeration contracting, pays the required license fee, and applies to the Board prior to January 1, 1997. The current specialty license shall be posted in accordance with subsection (g) of this section.

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

(j) The Board in its discretion upon application may grant a reciprocal license to a person holding a valid, active substantially comparable license from another jurisdiction, but only to the extent the other jurisdiction grants reciprocal privileges to North Carolina licensees.

(k) Upon application and payment of the fee for license renewal provided in G.S. 87-64, the Board shall issue a certificate of license to any licensee whose business activities require a Class I or Class II license if that licensee had an established place of business and was licensed pursuant to this Article prior to January 1, 2018. (1955, c. 912, s. 7; 1959, c. 1206, s. 1; 1979, c. 843, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1082, s. 5; 1989, c. 770, s. 13; 1995, c. 376, s. 2; 1998-216, ss. 1, 2, 2.1; 2009-333, ss. 1, 2; 2017-10, s. 2.7(a).)

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

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

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

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

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

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

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

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

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

Any person, firm or corporation who shall engage in or offer to engage in, or carry on the business of refrigeration contracting as defined in this Article, without first having been licensed to engage in the business, or businesses, as required by the provisions of this Article; or any person, firm or corporation holding a refrigeration license under the provisions of this Article who shall practice or offer to practice or carry on any type of refrigeration contracting not authorized by the license; or any person, firm or corporation who shall give false or forged evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall falsely impersonate any other practitioner of like or different name, or who shall use an expired or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a Class 3 misdemeanor. The Board may, in its discretion, use its funds to defray the costs and expenses, legal or otherwise, in the prosecution of any violation of this Article. Employees, while working under the supervision and jurisdiction of a person, firm or corporation licensed in accordance with the provisions of this Article, shall not be construed to have engaged in the business of refrigeration contracting. (1955, c. 912, s. 10; 1993, c. 539, s. 607; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 376, s. 4; 2009-333, s. 5.)

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Each applicant for a license by examination shall pay to the Board of Refrigeration Contractors a nonrefundable examination fee in an amount to be established by the Board not to exceed the sum of one hundred dollars ($100.00).

(b) The license of every person licensed under the provisions of this statute shall be annually renewed. Effective January 1, 2012, the Board may require, as a prerequisite to the annual renewal of a license, that licensees complete continuing education courses in subjects related to refrigeration contracting to ensure the safe and proper installation of commercial and transport refrigeration work and equipment. On or before November 1 of each year the Board shall cause to be mailed an application for renewal of license to every person who has received from the Board a license to engage in the refrigeration business, as heretofore defined. On or before January 1 of each year every licensed person who desires to continue in the refrigeration business shall forward to the Board a nonrefundable renewal fee in an amount to be established by the Board not to exceed eighty dollars ($80.00) together with the application for renewal. Upon receipt of the application and renewal fee the Board shall issue a renewal certificate for the current year. Failure to renew the license annually shall automatically result in a forfeiture of the right to engage in the refrigeration business.

(c) Any licensee who allows the license to lapse may be reinstated by the Board upon payment of a nonrefundable late renewal fee in an amount to be established by the Board not to exceed one hundred sixty dollars ($160.00) together with the application for renewal. Any person who fails to renew a license for two consecutive years shall be required to take and pass the examination prescribed by the Board for new applicants before being licensed to engage further in the refrigeration business. (1955, c. 912, s. 13; 1969, c. 314; 1979, c. 843, ss. 3, 4; 1998-216, s. 5; 2009-333, s. 8; 2017-10, s. 2.7(a).)

§ 87-64.1. Public awareness program.

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

Article 6.

Water Well Contractors.

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

Article 7.

North Carolina Well Construction Act.

§ 87-83. Short title.

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

§ 87-84. Findings and policy.

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

§ 87-85. Definitions.

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

(1) "Abandoned well" means a well whose use has been discontinued, or which is in such a state of disrepair that continued use for obtaining groundwater or other useful purpose is impracticable.

(2) "Aquifer" means a geologic formation, group of such formations, or a part of such a formation that is water bearing.

(3) "Artesian well" means a well tapping a confined or artesian aquifer.

(4) "Environmental Management Commission" means the North Carolina Environmental Management Commission or its successor, unless otherwise indicated.

(5) "Construction of wells" means all acts necessary to construct wells for any intended purpose or use, including the location and excavation of the well; placement of casings, screens and fittings; development and testing.

(5a) "Department" means the Department of Environmental Quality unless otherwise indicated.

(6) "Installation of pumps and pumping equipment" means the procedure employed in the placement and preparation for operation of pumps and pumping equipment, including all construction involved in making entrances to the well and establishing seals.

(7) "Municipality" means a city, town, county, district, or other public body created by or pursuant to State law, or any combination thereof acting cooperatively or jointly.

(8) "Nonpotable mineralized water" means brackish, saline, or other water containing minerals of such quantity or type as to render the water unsafe, harmful or generally unsuitable for human consumption and general use.

(9) "Person" shall mean any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized or existing under the laws of this State or any other state or country.

(10) "Polluted water" means water containing organic or other contaminants of such type and quantity as to render it unsafe, harmful or unsuitable for human consumption and general use.

(10a) "Private drinking water well" means any excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed to obtain groundwater for human consumption and that serves or is proposed to serve 14 or fewer service connections or that serves or is proposed to serve 24 or fewer individuals. The term "private drinking water well" includes a well that supplies drinking water to a transient noncommunity water system as defined in 40 Code of Federal Regulations § 141.2 (July 1, 2003 Edition).

(11) "Pumps" and "pumping equipment" means any equipment or materials utilized or intended for use in withdrawing or obtaining groundwater including well seals.

(12) "Repair" means work involved in deepening, reaming, sealing, installing or changing casing depths, perforating, screening, or cleaning, acidizing or redevelopment of a well excavation, or any other work which results in breaking or opening the well seal.

(13) "Water supply well" means any well intended or usable as a source of water supply, but not to include a well constructed by an individual on land which is owned or leased by him, appurtenant to a single-family dwelling, and intended for domestic use (including household purposes, farm livestock, or gardens).

(14) "Well" means any excavation that is cored, bored, drilled, jetted, dug or otherwise constructed for the purpose of locating, testing or withdrawing groundwater or for evaluating, testing, developing, draining or recharging any groundwater reservoirs or aquifer, or that may control, divert, or otherwise cause the movement of water from or into any aquifer.

(15) "Well driller," "driller" or "water well contractor" means any person, firm, or corporation engaged in the business of constructing wells.

(16) "Well seal" means an approved arrangement or device used to cap a well or to establish and maintain a junction between the casing or curbing of a well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the well at the upper terminal.

(17) "Operation of wells" means the process, frequency, and duration of withdrawing water or other fluids from a well by any means. (1967, c. 1157, s. 3; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1987, c. 496, s. 1; 1989, c. 727, s.

218(21); 1997-358, s. 4; 1997-443, s. 11A.119(a); 2006-202, s. 1; 2015-241, s. 14.30(u).)

§ 87-86. Scope.

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

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

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

(1) Hold public hearings, upon not less than 30 days' prior notice setting forth the date, place, and time of hearing, and the proposed rules and regulations to be considered at said public hearing, which notice shall be published in one or more newspapers having general circulation throughout the State, in connection with proposed rules and regulations and amendments thereto.

(2) Enforce the provisions of this Article, and any rules and regulations not inconsistent with the provisions of this Article adopted pursuant thereto.

(3) Establish procedures and forms for the submission, review, approval, and rejection of applications, notifications, and reports required under this Article.

(4) Issue such additional regulations as may be necessary to carry out the provisions of this Article.

(5) Neither adopt nor enforce any rule or regulation that concerns the civil liability of an owner to a well driller for any costs or expenses of drilling and installing a well for the owner.

(6) Adopt rules governing the permitting and inspection by the Commission of private drinking water wells with a designed capacity of 100,000 gallons per day or greater.

(7) Adopt rules governing the permitting and inspection by local health departments of private drinking water wells pursuant to G.S. 87-97. (1967, c. 1157, s. 5; 1973, c. 1262, s. 23; 1985, c. 728, s. 4; 1987, c. 496, s. 4; 2006-202, s. 2.)

§ 87-88. General standards and requirements.

(a) Prior Permission. – Prior permission shall be obtained from the Environmental Management Commission for the construction of (i) any water well or of well systems with a designed capacity of 100,000 gallons per day or greater; and (ii) of any well in a geographical area where the Environmental Management Commission finds, after public hearings, such permission to be reasonably necessary to protect the groundwater resources and the public welfare, safety and health, taking into consideration other applicable State laws; provided, however, that the Environmental Management Commission shall not reject any application under this subsection for

permission to construct a well except upon the ground that the well would not be in compliance with a provision of this Article or with a rule or regulation of the Environmental Management Commission adopted pursuant to the provisions of G.S. 87-87 of this Article. Notification of approval or rejection of an application for permission to construct a well shall be given the applicant within a period of 15 days after receipt of such application. Private drinking water wells (i) with a designed capacity of 100,000 gallons per day or greater or (ii) that are to be constructed in a geographical area where the Environmental Management Commission has found that prior permission is necessary shall be subject to permitting and inspection by the Environmental Management Commission and shall not be subject to permitting and inspection by a local health department. All other private drinking water wells shall be subject to permitting and inspection by the local health department as provided in G.S. 87-97.

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

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

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

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

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

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

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

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

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

(k) Abandonment of Wells. –

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

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

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

§ 87-89. Existing installations.

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

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

The Environmental Management Commission or Department shall have the right to conduct such investigations as it may reasonably find necessary to carry on its duties prescribed in this Article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating the condition, installation, or operation of any well or associated equipment, facility, or property, and to require written statements or the filing of reports under oath, with respect to pertinent questions relating to the installation or operation of any well: Provided, that no person shall be required to disclose any secret formula, processes or methods used in any manufacturing operation or any confidential information concerning business activities carried on by him or under his supervision. No person shall refuse entry or access to any authorized representative of the Environmental Management Commission who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties, consistent with the provisions of this Article. (1967, c. 1157, s. 8; 1973, c. 1262, s. 23.)

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

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

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

§ 87-92. Hearings; appeals.

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

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

§ 87-94. Civil penalties.

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

(b) Repealed by Session Laws 1997-358, s. 3, effective August 4, 1997.

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

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

(e) Repealed by Session Laws 1997-358, s. 3, effective August 4, 1997.

(f) Repealed by 1995 (Reg. Sess., 1996), c. 743, s. 2, effective July 1, 1996.

(g) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1967, c. 1157, s. 12; 1985, c. 728, s. 3; 1987, c. 246, s. 2; 1989, c. 727, s. 218(22); 1989 (Reg. Sess., 1990), c. 1036, s. 10; 1995 (Reg. Sess., 1996), c. 743, s. 2; 1997-358, s. 3; 1997-443, s. 11A.119(a); 1998-215, s. 44; 2001-440, s. 1.4; 2015-241, s. 14.30(v).)

§ 87-95. Injunctive relief.

Upon violation of any of the provisions of or any order issued pursuant to this Article, or duly adopted rule of the Commission implementing the provisions of this Article, the Secretary of Environmental Quality may, either before or after the institution of proceedings for the collection of the penalty imposed by this Article for such violations, request the Attorney General to institute a civil action in the superior court in the name of the State upon the relation of the Department of Environmental Quality for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Article for any violation of same. (1967, c. 1157, s. 13; 1973, c. 1262, s. 23; 1975, c. 842, s. 1; 1977, c. 771, s. 4; 1989, c. 727, s. 16; 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u), (v).)

§ 87-96. Conflict with other laws.

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

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

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

§ 87-97. Permitting and testing of private drinking water wells.

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. The local health department shall be the exclusive authority for the permitting of wells and well systems as described in G.S. 143-138(b17)(2). Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own forms.

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

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

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

(b1) Repealed by Session Laws 2023-90, s. 9.5, effective July 10, 2023.

(b2) Permit to Include Authorization for Piping and Electrical. – A permit issued under this section shall also be deemed to include authorization for all of the following:

(1) The installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch.

(2) The installation, construction, maintenance, or repair of water pipes by a person certified as a well contractor under Article 7A of this Chapter when running water pipes from the well to the water tank.

(3) The installation of both water pipes and electrical wiring in a single ditch by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch or other pressure sensing device and water pipes from the well to the water tank. The ditch shall be as deep as the minimum cover requirements for either electrical wiring or water pipes, whichever is greater. The ditch shall be covered by a person certified as a well contractor under Article 7A of this Chapter upon the completion of the activities conducted pursuant to this subsection.

This subsection shall not be interpreted to prohibit any person licensed by an independent occupational licensing board from performing any authorized services within the scope of practice of the person's license.

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

(d) Well Site Evaluation. – The local health department shall conduct a field investigation to evaluate the site on which a private drinking water well is proposed to be located before issuing a permit pursuant to this section. The field investigation shall determine whether there is any abandoned well located on the site, and if so, the construction permit shall be conditioned upon the proper closure of all abandoned wells located on the site in accordance with the requirements of this Article and rules adopted pursuant to this Article. If a private drinking water well is proposed to be located on a site on which a wastewater system subject to the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed to be located, the application for a construction permit shall be accompanied by a plat or site plan, as defined in G.S. 130A-334.

If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not require the contractor to be on site during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

(e) Issuance of Permit. – In accordance with G.S. 87-97.1 and G.S. 87-97.2, within 30 days of receipt of an application to construct or repair a well, a local health department shall make a determination whether the proposed private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant to this Article and shall issue a permit or denial accordingly. If a local health department fails to act within 30 days, the permit shall automatically be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. The local health department may impose any conditions on the issuance of a construction permit or repair permit that it determines to be necessary to ensure compliance with this Article and rules adopted pursuant to this Article.

Notwithstanding any other provision of law, no permit for a well that is in compliance with this Article and the rules adopted pursuant to this Article shall be denied on the basis of a local government policy that discourages or prohibits the drilling of new wells.

(e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules governing permits issued for private drinking water wells for circumstances in which the local health department has determined that the proposed site for a private drinking water well is located within 1,000 feet of a known source of release of contamination. Rules adopted pursuant to this subsection shall provide for notice and information of the known source of release of contamination and any known risk of issuing a permit for the construction and use of a private drinking water well on such a site.

(e2) Grouting Certification. – Notwithstanding any other provision of this Article, during the construction, repair, or abandonment of a private drinking water well, the local health department shall not conduct a grouting inspection if all of the following apply:

(1) The well contractor provides written, verbal, or electronic notice of intent to grout to the local health department prior to 9:00 A.M. on the date of grouting.

(2) The written, verbal, or electronic notice of intent to grout includes the location, permit number, and anticipated time for grouting and indicates that grouting may occur after normal business hours or on the weekend.

(3) If the grouting is to occur on a State holiday, the written, verbal, or electronic notice of intent to grout is provided by the last business day prior to the State holiday.

(4) The well contractor provides written certification, in a format and method specified by the Commission, to the local health department that the private drinking water well has been grouted in compliance with rules adopted pursuant to this Article.

(e3) Health Department Optional Presence. – Upon receipt of a notice of intent to grout under subsection (e2) of this section, the local health department may opt to be present during the grouting but the failure of the local health department to be present shall not affect the authority of the well contractor to self-certify the grouting under that subsection.

(e4) Exception for Variance. – Notwithstanding subsection (e2) of this section, if a variance is issued to a rule requiring grouting of a private drinking water well to a certain depth under rules adopted pursuant to this Article, the well contractor shall schedule a grout time and inspection with the local health department and only the local health department shall have the authority to certify that the private drinking water well was grouted in compliance with this Article.

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

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

(g) Certificate of Completion. – Upon completion of construction of a private drinking water well or repair of a private drinking water well for which a permit is required under this

section, the local health department shall inspect the well to determine whether it was constructed or repaired in compliance with the construction permit or repair permit. If the local health department determines that the private drinking water well has been constructed or repaired in accordance with the requirements of the construction permit or repair permit, the construction and repair requirements of this Article, and rules adopted pursuant to this Article, the local health department shall issue a certificate of completion. No person shall place a private drinking water well into service without first having obtained a certificate of completion. No person shall return a private drinking water well that has undergone repair to service without first having obtained a certificate of completion.

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

(i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The Commission for Public Health shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for corrective action and retesting where appropriate. The Commission for Public Health may by rule require testing for additional parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rulemaking to require testing for certain volatile organic compounds, the Commission shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environmental Quality; and (iv) visual on-site inspections of well sites. In addition, the rules shall require local health departments to educate citizens for whom new private drinking water wells are constructed and for citizens who contact local health departments regarding testing an existing well on all of the following:

(1) The scope of the testing required pursuant to this Article.
(2) Optional testing available pursuant to this Article.
(3) The limitations of both the required and optional testing.
(4) Minimum drinking water standards.

(j) Test Results. – The local health department shall provide test results to the owner of the newly constructed private drinking water well and, to the extent practicable, to any leaseholder of a dwelling unit or other facility served by the well at the time the water is sampled. The local health department shall include with any test results provided to an owner of a private drinking water well, information regarding the scope of the required and optional testing as established by rules adopted pursuant to subsection (i) of this section.

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is issued

that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

(*l*) Authority Not Limited. – This section shall not be construed to limit any authority of local boards of health, local health departments, the Department of Health and Human Services, or the Commission for Public Health to protect public health. (2006-202, s. 4; 2006-259, ss. 50(b), 50(c), 51; 2007-182, s. 2; 2007-495, s. 1; 2008-198, s. 1; 2009-124, ss. 1, 3; 2010-31, s. 10.10A; 2011-255, ss. 1, 2; 2012-187, s. 12(a), (b); 2013-122, ss. 2, 3; 2013-413, s. 35(a); 2014-120, s. 43(a), (e); 2015-241, s. 14.30(u); 2015-246, s. 3.5(a); 2016-113, s. 17(a); 2017-10, s. 1.3(a); 2022-11, s. 6(a); 2023-90, s. 9.5; 2025-25, s. 29(6).)

§ 87-97.1. Issuance of permit for irrigation water well.

(a) A property owner may apply for, and be issued, a permit for an irrigation water well, whether the property is connected to, or served by, a public water system. The application shall be in accordance with G.S. 87-97 and shall specifically state that the irrigation water well will not be interconnected to plumbing required that is connected to any public water system and will be used for irrigation or other nonpotable purposes only.

(b) This section shall not apply if the property is connected to, or may be served by, a public water system that the public authority or unit of government operating the public water system is being assisted by the Local Government Commission.

(c) For purposes of this section, "irrigation water well" shall mean any water well that is not interconnected to any plumbing required to be connected to any public water system and that produces water that is used for irrigation or other nonpotable purposes only. (2015-246, s. 3.5(c).)

§ 87-97.2. Issuance of permit for property within service area of a public water system.

(a) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner may apply for, and be issued, a permit for a private drinking water well to serve any undeveloped or unimproved property located so as to be served by a public water system.

(b) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner of developed or improved property located so as to be served by a public water system may apply for, and be issued, a permit for a private drinking water well if the public water system has not yet installed water lines directly available to the property or otherwise cannot provide water service to the property at the time the property owner desires water service.

(c) Upon compliance with this Article, the property owner receiving a permit pursuant to subsection (a) or (b) of this section shall not be required to connect to the public water system for so long as the permitted private drinking water well remains compliant and in use. A property owner may opt to connect to the public water system if the property owner so desires. If the property owner opts to connect, the property owner may continue to operate the private drinking water well if that well is not interconnected to any plumbing connected to the public water system and that produces water that is used for irrigation or other nonpotable purposes only.

(d) Nothing in this section shall require a property owner to install a private drinking water well if the property is located so as to be served by a public water system and the public water system is willing to provide service to the property.

(e) This section shall not apply, and a public water system may mandate connection to that public water system, in any of the following situations:

(1) The private drinking water well serving the property has failed and cannot be repaired.

(2) The property is located in an area where the drinking water removed by the private drinking water well is contaminated or likely to become contaminated due to nearby contamination.

(3) The public authority or unit of government operating the public water system is being assisted by the Local Government Commission.

(4) Expired July 1, 2017, pursuant to Session Laws 2015-246, s. 3.5(j). (2015-246, s. 3.5(d).)

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

(a) The Bernard Allen Memorial Emergency Drinking Water Fund is established under the control and direction of the Department. The Fund shall be a nonreverting fund consisting of monies appropriated by the General Assembly or made available to the Fund from any other source.

(b) The Fund may be used to pay for:

(1) Notification, to the extent practicable, of persons aged 18 and older who reside in any dwelling unit, and the senior official in charge of any business, at which drinking water is supplied from a private drinking water well or improved spring that is located within 1,500 feet of, and at risk from, known groundwater contamination. The senior official in charge of the business shall take reasonable measures to notify all employees of the business of the groundwater contamination, including posting a notice of the contamination in a form and at a location that is readily accessible to the employees of the business.

(2) The costs of testing of private drinking water wells and improved springs for suspected contamination up to once every three years upon request by a person who uses the well, or more frequent testing if the concentration of one or more contaminants in a private drinking water well is increasing over time and there is a significant risk that the concentration of a contaminant will exceed the drinking water action levels set forth in subsection (c) of this section within a three-year period.

(3) Additional testing to confirm the results of a previous test.

(4) The temporary or permanent provision of alternative drinking water supplies to persons whose drinking water well or improved spring is contaminated. Under this section, an alternative drinking water supply includes the repair, such as use of a filtration system, or replacement of a contaminated well or the connection to a public water supply.

(5) Monitoring of filtration systems used in connection with temporary or permanent alternative drinking water supplies provided pursuant to this section.

(c) The Department shall disburse monies from the Fund based on financial need and on the risk to public health posed by groundwater contamination and shall give priority to the provision of services under this section to instances when an alternative source of funds is not available. The Fund shall not be used to provide alternative water supply to households with incomes greater than three hundred percent (300%) of the current federal poverty level, provided

that this income limitation shall not apply in cases of contamination that include per-fluoroalkyl or poly-fluoroalkyl substances. The Fund may be used to provide alternative drinking water supplies if the Department determines that the concentration of one or more contaminants in the private drinking water well or improved spring exceeds the federal maximum contaminant level, or the federal drinking water action level as defined in 40 Code of Federal Regulations § 141.1 through § 141.571 (1 July 2007) and 40 Code of Federal Regulations § 143.3 (1 July 2007). For a contaminant for which a federal maximum contaminant level or drinking water action level has not been established, the State groundwater standard established by the Environmental Management Commission for the concentration of that contaminant, a health goal established by the North Carolina Department of Health and Human Services, or a health advisory standard established by the United States Environmental Protection Agency shall be used to determine whether the Fund may be used to provide alternative drinking water supplies. The Fund may also be used to provide alternative drinking water supplies as provided in this section if the Department determines that the concentration of one or more contaminants in a private drinking water well is increasing over time and that there is a significant risk that the concentration of a contaminant will exceed the federal maximum contaminant level or drinking water action level, or the State groundwater standard. A determination of the concentration of a contaminant shall be based on a sample of water collected from the private drinking water well within the past 12 months.

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

(c2) If the Department provides an alternative drinking water supply by extension of a waterline, the Department may disburse from the Fund no more than fifty thousand dollars ($50,000) per household or other service connection. For projects where more than 10 residences are eligible for alternative water supplies under this section, no more than one-third of the total cost of the project may be paid from the Fund. The Department may combine monies from the Fund with monies from other sources in order to pay the total cost of the project.

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

(1) The contamination of the private drinking water well is naturally occurring.

(2) The owner of the property on which the private drinking water well is located did not cause or contribute to the contamination or control the source of the contamination.

(3) The source of the contamination is the application or disposal of a hazardous substance or pesticide that occurred without the consent of the owner of the property on which the private drinking water well is located.

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

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

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

(c7) In disbursing monies from the Fund for replacement water supplies, the Department shall give priority to circumstances in which a well is contaminated as the result of nonnaturally occurring groundwater contamination in the area over circumstances in which a well has naturally occurring contamination.

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

(e) The Department, in consultation with the Commission for Public Health and local health departments, shall report no later than October 1 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division of the General Assembly on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may also include recommendations for any legislative action. (2006-255, s. 5.2; 2007-182, s. 2; 2007-323, s. 12.2(a); 2008-107, s. 12.1; 2013-360, s. 14.14; 2014-100, s. 14.21(e); 2017-10, s. 4.22; 2021-180, s. 12.7.)

Article 7A.

Well Contractors Certification.

§ 87-98.1. Title.

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

§ 87-98.2. Definitions.

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

(1) Commission. – The Well Contractors Certification Commission established in Article 7B of this Chapter.
(2) Department. – The Department of Health and Human Services.
(3) Person. – A natural person.
(4) Secretary. – The Secretary of Health and Human Services.
(5) Well contractor. – A person in trade or business who undertakes to perform a well contractor activity or who undertakes to personally supervise or personally manage the performance of a well contractor activity on the person's own behalf or for any person, firm, or corporation.
(6) Well contractor activity. – The construction, installation, repair, alteration, or abandonment of any well. (1997-358, s. 2; 1997-443, s. 11A.119(b); 2002-165, s. 1.1; 2015-241, s. 14.30(u), (v); 2021-180, s. 9G.7(a).)

§ 87-98.3. Purpose.

It is the purpose of this Article to protect the public health and safety by ensuring the integrity and competence of well contractors, to protect and beneficially develop the groundwater resources of the State, to require the examination of well contractors and the certification of their competency

to supervise or conduct well contractor activity, and to establish procedures for the examination and certification of well contractors. (1997-358, s. 2.)

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

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

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

(1) A person who is employed by, or performs labor or services for, a certified well contractor in connection with well contractor activity performed under the personal supervision of the certified well contractor.

(2) A person who constructs, repairs, or abandons a well that is located on land owned or leased by that person.

(3) A person who is employed by a government agency and who performs well contractor activity solely within the scope of the person's government employment.

(4) A person who is licensed as a professional engineer under Chapter 89C of the General Statutes, a geologist under Chapter 89E of the General Statutes, or a soil scientist under Chapter 89F of the General Statutes who uses a hand auger to collect soil or water samples or to measure water levels. This exemption does not include the construction of a monitoring well.

(5) Construction, repair, or abandonment of a well used for a temporary dewatering activity that is associated with, and necessary to complete construction of, a utility distribution or collection system, a building or other structure, or a transportation system, if all of the following conditions are met:

a. The dewatering well is constructed solely for the purpose of removing water from or lowering the water table in the immediate area of the construction activity.

b. The dewatering well is located within 25 feet of the excavation and is not greater than 25 feet deeper than the excavation.

c. The dewatering well is abandoned in accordance with rules governing the abandonment of wells adopted by the Environmental Management Commission pursuant to G.S. 87-87 within 30 days of installation of the well or within 10 days of completion of the project, whichever is later.

(6) Construction, repair, or abandonment of a well used for a temporary dewatering activity that is associated with the construction of a borrow pit if the dewatering activity is located within 15 feet of the proposed perimeter of the borrow pit.

(7) Exploratory drilling for mining-related investigations.

(8) Installation of a water level observation well on property for which a mining permit has been issued under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
(9) Drilling of a blast hole.
(10) Installation of a cathodic protection anode.
(11) Installation of a wetland monitoring gauge at a depth of eight feet or less for the purpose of monitoring fluctuations in the water table.
(12) Installation of a caisson, piling, or structural pier.
(13) A person who is licensed as a plumbing contractor under Article 2 of Chapter 87 of the General Statutes who installs pumps or pumping equipment; installs, breaks, or reinstalls a well seal in accordance with G.S. 87-85(6); or disinfects a well incident to the installation, alteration, or replacement of pumps or pumping equipment within or near a well. However, the plumbing contractor shall maintain documentation of having attended a continuing education course that covered well seal installation, protection, and sanitation within the last two years prior to the work being performed. The State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors shall ensure that continuing education courses covering well seal installation, protection, and sanitation are available to licensed plumbing contractors during each six-month continuing education course schedule. The licensed plumbing contractor shall remain on-site while the work is being performed until the well is disinfected and sealed.
(14) Construction, repair, or abandonment of a well used for the exploration or development of oil or gas.

(c) Additional Exemptions. – In addition to the exemptions set out in subsection (b) of this section, the Commission may exempt by rule a geophysical activity, construction activity, or other well contractor activity from the requirements of this Article if the Commission finds that the activity has a negligible impact on the environment; public health, safety, and welfare; and the groundwater resources of the State. (1997-358, s. 2; 1998-129, s. 1; 2001-440, s. 1.1; 2005-386, s. 9; 2009-418, s. 1; 2014-4, s. 16.)

§ 87-98.5. Types of certification; sole certification.

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

§ 87-98.6. Well contractor qualifications and examination; exemption.

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

(b) The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors for the installation, construction, maintenance, and repair of electrical wiring

devices, appliances, and equipment related to the construction, operation, and repair of wells. Requirements developed pursuant to this subsection shall apply only to the initial certification of an applicant and shall not be required as part of continuing education or as a condition of certification renewal.

(c) A person who is 70 years of age or older who (i) has engaged in well contractor activity for more than 20 years; (ii) has no record of having violated any provision of this Article, Article 7 of this Chapter, or any order issued or rule adopted pursuant to this Article or Article 7 of this Chapter in the previous 10 years; and (iii) meets all other requirements for certification under this Article is exempt from examination requirements adopted pursuant to this section. (1997-358, s. 2; 2014-120, s. 42(b); 2023-63, s. 13.)

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

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

(1) The certificate holder voluntarily surrenders the certificate to the Commission.

(2) The certificate is revoked or suspended by the Commission for cause.

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

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

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

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

(2) The applicant has not conducted all restoration activities ordered by the Department related to a violation by the applicant of Article 7 of this Chapter.

(3) As determined by the Commission, the applicant has a history of not complying with this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles. (1997-358, s. 2; 2001-440, s. 1.2; 2007-495, s. 2.)

§ 87-98.8. Disciplinary actions.

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

(1) Engaged in fraud or deception in connection with obtaining certification or in connection with any well contractor activity.

(2) Failed to use reasonable care, judgment, or the application of the person's knowledge or ability in the performance of any well contractor activity.
(3) Been grossly negligent or has demonstrated willful disregard of any applicable laws or rules governing well construction.
(4) Failed to satisfactorily complete continuing education requirements established by the Commission. (1997-358, s. 2.)

§ 87-98.9. Fees; Well Construction Fund.

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

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

§ 87-98.10. Promotion of training.

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

§ 87-98.11. Responsibilities of well contractors.

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

§ 87-98.12. Education requirements.

(a) In order to be certified under this Article, a well contractor shall satisfactorily complete two hours of approved continuing education each year for the first three years of the contractor's certification. The Commission shall not require a well contractor properly certified in accordance with the provisions of this Article and rules adopted under this Article to obtain continuing education credits for annual renewal of certification after the contractor's third year of certification, except as provided in subsection (b) of this section. The Commission shall specify the scope of required continuing education courses for this purpose and shall approve continuing education courses.

(b) Notwithstanding subsection (a) of this section, in order to continue to be certified under this Article, a well contractor against whom disciplinary action is taken pursuant to the provisions of this Article and rules adopted under this Article shall satisfactorily complete the number of hours of approved educational courses required by the Commission for remedial purposes. The Commission shall specify the scope of required continuing education courses for this purpose and shall approve continuing education courses.

(c) The Commission shall adopt or amend its rules in accordance with this section. (1997-358, s. 2; 1998-129, s. 1; 2001-440, s. 1.3; 2007-495, s. 5; 2014-2, s. 1.)

§ 87-98.13. Injunctive relief.

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

§ 87-98.14. Reciprocity.

To the extent that other states provide for the licensing or certification of well contractors, the Commission shall permit those individuals who present valid proof of licensure or certification in good standing in one or more of those states to sit for examination for a license of the same or equivalent classification in North Carolina without delay, upon satisfactory proof furnished to the Commission that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in North Carolina and upon payment of the required fee. (2015-246, s. 3.5(b).)

Article 7B.

Well Contractors Certification Commission.

§ 87-99. Definitions.

Unless the context clearly requires otherwise, the definitions in G.S. 87-85 and G.S. 87-98.2 apply in this Part. (1997-358, s. 1; renumbered from N.C. Gen. Stat. § 143B-301.10 by 2021-180, s. 9G.7(b).)

§ 87-99.1. Creation, powers, and duties of the Commission.

(a) Creation and Duties. – There is established within the Department of Health and Human Services, Division of Public Health, the Well Contractors Certification Commission. The Commission shall:

(1) Adopt rules with respect to the certification of well contractors as provided by Article 7A of Chapter 87 of the General Statutes.

(2) Exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes. The Commission shall make the final agency decision on any matter involving the certification of well contractors pursuant to Article 7A of Chapter 87 of the General Statutes and on civil penalties assessed for violations of that Article or rules adopted pursuant to that Article.

(3) Adopt rules as may be required to secure a federal grant-in-aid for a program concerned with the certification of well contractors. This subdivision is to be liberally construed in order that the State and its citizens may benefit from federal grants-in-aid.

(b) Delegation. – The Commission may, by rule, delegate to the Secretary of Health and Human Services any of its powers, other than the power to adopt rules. (1997-358, s. 1; renumbered from N.C. Gen. Stat. § 143B-301.11 by 2021-180, s. 9G.7(b).)

§ 87-99.2. Membership of Commission.

(a) Appointments. – The Commission shall consist of seven members appointed as follows:

(1) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of domestic water supply wells, and (iv) a resident of a county that is located east of or is traversed by Interstate 95.

(2) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of domestic water supply wells, and (iv) a resident of a county that is located wholly west of Interstate 95.

(3) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, and (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of industrial, municipal, or other large capacity water supply wells.

(4) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is (i) engaged in well contractor activities, (ii) certified as a well contractor under Article 7A of Chapter 87 of the General Statutes, and (iii) engaged primarily in the construction, installation, repair, alteration, or abandonment of nonwater supply wells, such as monitoring or recovery wells.

(5) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) employed by a local county health department and (ii) actively engaged in well inspection and permitting.

(6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is (i) employed by a local county health department and (ii) actively engaged in well inspection and permitting.

(7) One member appointed by the Governor who is (i) appointed from the public at large, (ii) not engaged in well contractor activities, and (iii) not an employee of a firm or corporation engaged in well contractor activities or a State or county governmental agency.

(b) Additional Qualifications. – Appointment of members to fill positions (1), (2), (3), and (4) shall be made from among all those persons who are recommended for appointment to the Commission by any person who is engaged in well contractor activities and who is certified as a well contractor under Article 7A of Chapter 87 of the General Statutes. No person shall be appointed to the Commission who is a resident of, or has a principal place of business in, the same county as another member of the Commission.

(c) Terms. –Appointments to the Commission shall be for terms of three years. The terms of members appointed to fill positions (1), (2), and (7) shall expire on 30 June of years evenly divisible by three. The terms of members appointed to fill positions (3) and (4) shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of members appointed to fill positions (5) and (6) shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Members shall serve until their successors are appointed and qualified. No member shall serve more than two consecutive terms.

(d) Officers. – The Commission shall elect a Chair and a Vice-Chair from among its members. These officers shall serve from the time of their election until 30 June of the following year, or until a successor is elected.

(e) Vacancies. – An appointment to fill a vacancy on the Commission created by the resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(f) Removal. – The Governor may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance, as provided in G.S. 143B-13.

(g) Compensation. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) Quorum. – A majority of the membership of the Commission constitutes a quorum for the transaction of business.

(i) Services. – All clerical and other services required by the Commission shall be supplied by the Secretary. (1997-358, s. 1; 2002-165, s. 1.11; renumbered from N.C. Gen. Stat. § 143B-301.12 by 2021-180, s. 9G.7(b).)

Article 8.

Underground Damage Prevention.

§ 87-100: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

§ 87-101: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-102: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-103: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-104: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-105: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-106: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-107: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-107.1: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-108: Repealed by Session Laws 2013-407, s.1, effective October 1, 2014.

§ 87-109: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

§ 87-110: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

§ 87-111: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

§ 87-112: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

§ 87-113: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

§ 87-114: Repealed by Session Laws 2013-407, s. 1, effective October 1, 2014.

Article 8A.

Underground Utility Safety and Damage Prevention Act.

§ 87-115. Short title.

This Article may be cited as the "Underground Utility Safety and Damage Prevention Act." (2013-407, s. 2.)

§ 87-116. Declaration of policy and purpose.

The General Assembly of North Carolina hereby declares as a matter of public policy that it is necessary to protect the citizens and workforce of this State from the dangers inherent in excavating or demolishing in areas where underground lines, systems, or infrastructure are buried beneath the surface of the ground, and it is necessary to protect from costly damage underground facilities used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, or sewage. In order to carry out this public policy and to satisfy these compelling interests, the General Assembly has enacted the provisions of this Article providing for a systematic, orderly, and uniform process to identify existing facilities in advance of any excavation or demolition in this State and to implement safe digging practices. (2013-407, s. 2.)

§ 87-117. Definitions.

The following definitions apply in this Article:

(1) APWA. – The American Public Works Association or its successors.

(1a) Board. – The Underground Damage Prevention Review Board.

(2) Business continuation plan. – A plan that includes actions to be taken in an effort to provide uninterrupted service during catastrophic events.

(3) Contract locator. – A person hired by an operator to identify and mark facilities.

(4) Damage. – The substantial weakening of structural or lateral support of a facility; penetration or destruction of protective coating, housing, or other protective device of a facility; or the partial or complete severance of a facility.

(5) Demolish or demolition. – Any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by any means, including the use of any tools, equipment, or discharge of explosives.

(6) Design notice. – A communication to the Notification Center in which a request for identifying existing facilities for advance planning purposes is made. A design notice may not be used for excavation purposes.

(7) Designer. – Any architect, engineer, or other person who prepares or issues a drawing or blueprint for a construction or other project that requires excavation or demolition work.

(8) Emergency. – An event involving a clear and imminent danger to life, health, or property, the interruption of essential utility services, or the blockage of transportation facilities, including highways, railways, waterways, or airways that require immediate action.

(9) Excavate or excavation. – An operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of manual or mechanized equipment or by discharge of explosives, including, but not limited to, auguring, backfilling, boring, digging, ditching, drilling, directional drilling, driving, grading, horizontal directional drilling, well drilling, plowing-in, pounding, pulling-in, ripping, scraping, trenching, and tunneling.

(10) Excavator. – A person engaged in excavation or demolition.

(11) Extraordinary circumstances. – Circumstances that make it impossible for the operator to comply with the provisions of this Article, including hurricanes, tornadoes, floods, ice, snow, and acts of God.

(12) Facility. – Any underground line, underground system, or underground infrastructure used for producing, storing, conveying, transmitting, identifying, locating, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, or sewage. Provided there is no encroachment on any operator's right-of-way, easement, or permitted use, for the purposes of this Article, the following shall not be considered an underground facility: (i) swimming pools and irrigation systems; (ii) petroleum storage systems under Part 2A of Article 21A of Chapter 143 of the General Statutes; (iii) septic tanks under Article 11 of Chapter 130A of the General Statutes; and (iv) liquefied petroleum gas systems under Article 5 of Chapter 119 of the General Statutes, unless the system is subject to Title 49 C.F.R. § 192 or § 195.

(13) Locator. – An individual who identifies and marks facilities for operators who has been trained and whose training has been documented.

(14) Mechanized equipment. – Equipment operated by means of mechanical power, including, but not limited to, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, horizontal directional drills, cable and pipe plows, and other equipment used for plowing-in or pulling-in cable or pipe.

(15) Nonmechanized equipment. – Hand tools and soft dig technologies.

(16) Notice. – Oral, written, or electronic communication to the Notification Center from any person planning to excavate or demolish in the State that informs an operator of the person's intent to excavate or demolish.

(17) Notification Center. – A North Carolina member-owned not-for-profit corporation sponsored by operators that will provide a system through which a person can notify operators of proposed excavations and demolitions and submit reports of alleged violations of this Article.

(18) Operator. – Any person, public utility, communications or cable service provider, municipality, electrical utility, or electric or telephone cooperative that owns or operates a facility in this State.

(18a) Parcel. – An extended area of land with fixed boundaries.
(19) Person. – Any individual, owner, corporation, partnership, association, or any other entity organized under the laws of any state, any political subdivision of a state, or any other instrumentality of a state, or any authorized representative thereof.
(20) Positive response. – An automated information system that allows excavators, locators, operators, and other interested parties to determine the status of a locate request.
(20a) Soft dig technologies. – An excavation method that uses air or water pressure to break up soil and remove it with vacuum extraction.
(21) Subaqueous. – A facility that is under a body of water, including rivers, streams, lakes, waterways, swamps, and bogs.
(22) Tolerance zone. – If the diameter of the facility is known, the horizontal distance of one-half of the known diameter plus 24 inches on either side of the designated center line or, if the diameter of the facility is not marked, 24 inches on either side of the outside edge of the mark indicating a facility or, for subaqueous facilities, a clearance of 15 feet on either side of the indicated facility.
(23) Working day. – Every day, except Saturday, Sunday, or State legal holidays. (2013-407, s. 2; 2019-189, s. 1; 2025-21, s. 1.)

§ 87-118. Reserve to the State the power to regulate.

The provisions in this Article supersede and preempt any ordinance adopted by a city or county that purports to do any of the following:

(1) Require operators to obtain permits from a city or county in order to identify facilities.
(2) Require premarking or marking of facilities.
(3) Specify the types of paint or other marking devices that are used to identify facilities.
(4) Require removal of unexpired marks. The removal of expired marks shall be the responsibility of the city or county. (2013-407, s. 2.)

§ 87-119. Costs associated with compliance; effect of permit.

Any costs or expenses associated with an excavator's compliance with the requirements of this Article shall not be charged to any operator. Any costs or expenses associated with an operator's compliance with the requirements of this Article shall not be charged to any excavator. The Notification Center may not impose any charge on any person giving notice to the Notification Center. This section shall not affect costs related to the operation of the Notification Center apportioned to an operator pursuant to G.S. 87-120(b). This section shall not excuse an operator or excavator from liability for any damage or injury for which the operator or excavator would be responsible under applicable law. (2013-407, s. 2.)

§ 87-120. Notification Center; responsibilities.

(a) The operators in the State shall maintain a Notification Center for the sole purpose of providing the services required by this Article. The Notification Center shall maintain information concerning receipt of notification of proposed excavation and demolition activities as provided in

this Article and shall maintain information received from operators concerning the location of the operators' facilities and the operators' positive responses to marking of the facilities. The Notification Center is not responsible in any way for identifying or marking facilities for operators. The Notification Center is not responsible in any way for resolving reports of alleged violations of this Article. All operators in the State shall join the Notification Center as provided in subsection (b) of this section, and they shall use the services of the Notification Center to perform the acts required by the provisions of this Article. There shall be only one Notification Center for the State of North Carolina. The Notification Center is not an agency of the State or any of the State's political subdivisions and is not subject to the provisions of Chapter 132 or Chapter 133 of the General Statutes.

(b) Operators who are members of the Notification Center by whatever name that is in existence on October 1, 2013, must remain members. Operators with more than 50,000 customers or 1,000 miles of facilities who are not members on October 1, 2013, must join no later than October 1, 2014. Operators with more than 25,000 customers or 500 miles of facilities who are not members on October 1, 2013, must join no later than October 1, 2015. All operators that do not meet one of the criteria provided in this subsection must join no later than October 1, 2016. Each engineering division of the Department of Transportation established pursuant to G.S. 136-14.1 must join no later than October 1, 2016. The board of directors of the Notification Center shall develop a reasonable method of apportioning the costs of operating the Notification Center among the member operators. Prior to adopting a method of determining such cost allocation, the board of directors shall publish the proposed method of cost allocation to the member operators, and the proposed method of cost allocation shall be approved by the member operators.

(c) The Notification Center shall have the following duties and responsibilities:

(1) Maintain a record of the notices received under subsection (d) of this section for at least four years.

(2) Repealed by Session Laws 2019-189, s. 1, effective October 1, 2019, and applicable to excavations and demolitions occurring on or after that date.

(3) Receive and transmit notices as provided in subsection (d) of this section.

(4) Develop and update, as needed, a business continuation plan.

(5) Repealed by Session Laws 2019-189, s. 1, effective October 1, 2019, and applicable to excavations and demolitions occurring on or after that date.

(6) Provide a positive response system.

(7) Establish and operate a damage prevention training program for members of the Notification Center. No person may recover damages in any manner or form from the Notification Center arising out of or related to the manner in which the Notification Center conducts a damage prevention training program or receives, transmits, or otherwise administers a report of an alleged violation of this Article.

(8) Provide aggregate data as requested by the Board to assess the operational fee authorized under G.S. 87-129A.

(9) Provide information related to the Notification Center's receipt and transmission of notices reasonably requested by the Board in its consideration of reports of alleged violations of this Article.

(d) The Notification Center shall receive notice from any person intending to excavate or demolish in the State and shall, at a minimum, transmit the following information to the appropriate operator:

(1) The name, address, and telephone number of the person providing the notice and, if different, the person responsible for the proposed excavation or demolition.
(2) The starting date of the proposed excavation or demolition.
(3) The anticipated duration of the proposed excavation or demolition.
(4) The type of proposed excavation or demolition operation to be conducted.
(5) The location of the proposed excavation or demolition.
(6) Whether or not explosives are to be used in the proposed excavation or demolition.

(e) Repealed by Session Laws 2019-189, s. 1, effective October 1, 2019, and applicable to excavations and demolitions occurring on or after that date. (2013-407, s. 2; 2019-189, s. 1.)

§ 87-121. Facility operator responsibilities.

(a) An operator shall provide to the excavator the following:
(1) The horizontal location and description of all of the operator's facilities in the area where the proposed excavation or demolition is to occur. The location shall be marked by stakes, soluble paint, flags, or any combination thereof, as appropriate, depending upon the conditions in the area of the proposed excavation or demolition. The operator shall, when marking as provided under this subdivision, use the APWA Uniform Color Code. Where practical, painted surface marks should be of adequate length to distinguish from dots. If the diameter or width of the facility is greater than four inches, the dimension of the facility shall be indicated at least every 50 feet in the area of the proposed excavation or demolition. An operator who operates multiple facilities in the area of the proposed excavation or demolition shall locate each facility.
(1a) The operator's identity, marked as provided in subdivision (1) of this subsection, in the area where the proposed excavation or demolition is to occur. At a minimum, the operator's identity shall be marked at the beginning point, at intervals of 200 linear feet, and at the end point of the proposed excavation or demolition.
(2) Any other information that would assist the excavator in identifying and thereby avoiding damage to the marked facilities.

(b) Unless otherwise provided in a written agreement between the operator and the excavator, including an electronically transmitted written agreement, the operator shall provide to the excavator the information required by subsection (a) of this section within the times provided below:
(1) For a facility, within three full working days prior to the work start date provided by the excavator.
(2) For a subaqueous facility, within 10 full working days after the day notice of the proposed excavation or demolition was provided to the Notification Center.
(3) If the operator declares an extraordinary circumstance, the times provided in this subsection shall not apply.
(4) For an emergency request, an initial contact with the excavator shall be made within three hours.

(5) For a request of an unmarked facility required by G.S. 87-122(c)(6), the operator shall arrange for the facility to be marked within three hours from the time the additional notice is received by the Notification Center.

(c) The operator shall provide a positive response to the Notification Center before the expiration of the time provided in subsection (b) of this section. The response shall indicate whether and to what extent the operator is able to provide the information required by subsection (a) of this section to respond to the notice from the excavator.

(d) If the operator determines that provisions for marking subaqueous facilities are required, the operator will provide a positive response to the Notification Center not more than three full working days after notice has been provided by the excavator.

(e) If extraordinary circumstances prevent the operator from marking the location of the facilities within the time specified in subsection (b) of this section, the operator shall either notify the excavator directly or notify the excavator through the Notification Center. When providing the notification under this subsection, the operator shall state the date and time when the location will be marked.

(f) An operator shall prepare or cause to be prepared installation records of all facilities installed on or after the date this Article becomes effective in a public street, alley, or right-of-way dedicated to public use, excluding service drops and services lines. The operator shall maintain these records in the operator's possession while the facility is in service.

(g) All facilities installed by or on behalf of operators on or after the date this Article becomes effective shall be electronically locatable using a locating method that is generally accepted by operators in the particular industry or trade in which the operator is engaged.

(h) A locator shall notify the operator if the locator becomes aware of an error or omission in the records or documentation showing the location of the operator's facilities. The operator must update its records to correct any error or omission.

(i) An operator may reject an excavation or demolition notice due to homeland security considerations based upon federal statutes or federal regulations until the operator can confirm the legitimacy of the notice. The operator shall notify the person making the notice of the denial and may request additional information through the positive response system.

(j) Gravity fed sanitary sewers installed prior to the date this Article becomes effective and all storm water facilities shall be exempt from the location requirements provided in subsection (a) of this section. Neither the excavator nor the person financially responsible for the excavation will be liable for any damage to an unmarked gravity fed sanitary sewer line or unmarked storm water facility if the person doing the excavation exercises due care to protect existing facilities when there is evidence of the existence of those facilities near the proposed excavation area.

(k) An operator who does not become a member of the Notification Center as required by G.S. 87-120(b) may not recover for damages to a facility caused by an excavator who has complied with the provisions of this Article and has exercised reasonable care in the performance of the excavation or demolition. (2013-407, s. 2; 2019-189, s. 1; 2025-21, s. 2.)

§ 87-122. Excavator responsibilities.

(a) Before commencing any excavation or demolition operation, the person responsible for the excavation or demolition shall provide or cause to be provided notice to the Notification Center of his or her intent to excavate or demolish. Notice for any excavation or demolition that does not involve a subaqueous facility must be given no less than three full working days before the proposed commencement date of the excavation or demolition. Notice for any excavation or

demolition in the vicinity of a subaqueous facility must be given no less than 10 to 20 full working days before the proposed commencement date of the excavation or demolition. Notice given pursuant to this subsection shall expire 28 calendar days after the work start date. No excavation or demolition may continue after this 28-day period unless the person responsible for the excavation or demolition provides a subsequent notice which shall be provided in the same manner as the original notice required by this subsection. When demolition of a building is proposed, the operator shall be given a reasonable time in which to remove or protect the operator's facilities before the demolition commences.

(b) The notice required by subsection (a) of this section shall, at a minimum, contain all of the following:

(1) The name, address, and telephone number of the person providing the notice.
(2) The anticipated starting date of the proposed excavation or demolition.
(3) The anticipated duration of the proposed excavation or demolition.
(4) The type of proposed excavation or demolition operation to be conducted.
(5) The area of locate of the proposed excavation which is limited to an area the excavator reasonably believes may be completed within 28 calendar days from the work start date and does not include any areas completed and accepted by the authorities having jurisdiction. The area of locate is also limited to one of the following:
    a. A single parcel that may exceed 1/4 mile in linear length identified by a single address.
    b. The lesser of five adjoining parcels identified by addresses, not to exceed 1/4 mile in linear length or an area not to exceed 1/4 mile in linear length.
(6) Whether or not explosives are to be used in the proposed excavation or demolition.

(c) An excavator shall comply with the following:

(1) When the excavation area cannot be clearly and adequately identified within the area described in the notice, the excavator shall designate the route, specific area to be excavated, or both by premarking the area before the operator performs a locate. Premarking shall be made with soluble white paint, white flags, or white stakes.
(2) Confirm through the Notification Center's positive response system prior to excavation or demolition that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked.
(3) Plan the excavation or demolition to avoid damage to or minimize interference with facilities in or near the construction area.
(4) Begin excavation or demolition prior to the specified waiting period only if the excavator has confirmed that all operators have responded with an appropriate positive response.
(5) If the operator declares extraordinary circumstances, the excavator shall not excavate or demolish until after the time and date that the operator has provided in the operator's response.
(6) If an operator fails to respond to the positive response system, the excavator may proceed if there are no visible indications of a facility at the proposed

excavation or demolition area, such as a pole, marker, pedestal, meter, or valve. However, if the excavator is aware of or observes indications of an unmarked facility at the proposed excavation or demolition area, the excavator shall not begin excavation or demolition until an additional notice is made to the Notification Center detailing the facility and an arrangement is made for the facility to be marked by the operator within three hours from the time the additional notice is received by the Notification Center.

(7) Beginning on the date provided in the excavator's notice to the Notification Center, the excavator shall preserve the staking, marking, or other designation until they are no longer required. When a mark is no longer visible or is destroyed, but the excavation or demolition continues in the vicinity of the facility, the excavator shall request a re-mark from the Notification Center to ensure the protection of the facility.

(8) When demolition of a building is proposed, the excavator shall give the operator a reasonable time in which to remove or protect the operator's facilities before demolition commences.

(9) An excavator shall not perform any excavation or demolition within the tolerance zone unless the excavator complies with all of the following conditions:

a. The excavator shall not use mechanized equipment, except noninvasive equipment specifically designed or intended to protect the integrity of the facility, within the marked tolerance zone of an existing facility until:

1. The excavator has visually identified the precise location of the facility or has visually confirmed that no facility is present up to the depth of excavation;
2. The excavator has taken reasonable precautions to avoid any substantial weakening of the facility's structural or lateral support, or both, or penetration or destruction of the facilities or their protective coatings; and
3. The excavator may use mechanical means, as necessary, for the initial penetration and removal of pavement or other materials requiring use of mechanical means of excavation but only to the depth of the pavement or other materials. For parallel type excavations within the tolerance zone, the existing facility shall be visually identified at intervals not to exceed 50 feet along the line of excavation to avoid damages. The excavator shall exercise due care at all times to protect the facilities when exposing these facilities.

b. The excavator shall maintain clearance between a facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of the cutting edge or point, as may be reasonably necessary to avoid damage to the facility.

c. The excavator shall provide support for facilities in and near the excavation or demolition area, including backfill operations, as may be reasonably required by the operator for the protection of the facilities.

(10) The excavator shall use nonmechanized equipment within a 24-inch circumference around a facility that is an oil, petroleum products, or highly volatile liquid pipeline system, a gas transmission line, or an electric transmission line unless the facility operator has consented to the use in writing and the operator's representative is on site during the use of the mechanized equipment. Within the tolerance zone of a pipeline system, the excavator shall use safe excavation practices, including, but not limited to, hand digging or potholing. For purposes of this subdivision, the term "oil, petroleum products, or highly volatile liquid pipeline system" has the same meaning as the term "pipeline system" in Title 49 C.F.R. § 195.2, the term "gas transmission line" has the same meaning as the term "transmission line" in Title 49 C.F.R. § 192.3, and the term "electric transmission line" has the same meaning as the term "transmission line" in G.S. 62-100(7). (2013-407, s. 2; 2019-189, s. 1; 2025-21, s. 3.)

§ 87-123. Training.

(a) Every person who is an excavator, locator, or operator under this Article by virtue of engaging in these activities in the course of a business or trade has a duty to provide education and training to employees and to document such education and training. The training shall include sufficient information, guidance, and supervision such that employees can competently and safely operate the equipment used in the course of the business or trade and complete assigned tasks in a competent and safe manner while minimizing the potential for damage.

(b) When an excavator, locator, or operator under this Article retains an independent contractor to perform activities regulated by this Article, the duty set forth in subsection (a) of this section shall not apply to the excavator, locator, or operator. Independent contractors shall provide training to their employees in accordance with this section.

(c) Excavation shall be conducted in accordance with OSHA Standard 1926 and under the direction of a competent person, as defined therein.

(d) Locators shall be properly trained. Locator training shall be documented. (2013-407, s. 2.)

§ 87-124. Exemptions.

The notice requirements in G.S. 87-122(a) and G.S. 87-122(b) do not apply to the following:

(1) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that does not encroach on any operator's right-of-way, easement, or permitted use.

(2) An excavation or demolition performed by the owner of a single-family residential property on his or her own land that encroaches on any operator's right-of-way, easement, or permitted use that is performed with nonmechanized equipment.

(3) An excavation or demolition that involves the tilling of soil for agricultural or gardening purposes that encroaches on any operator's right-of-way, easement, or permitted use and is less than 12 inches in depth.

(4) An excavation or demolition for agricultural purposes, as defined in G.S. 106-581.1, performed on property that does not encroach on any operator's right-of-way, easement, or permitted use.

(5) An excavation by an operator, surveyor, or their contractor with nonmechanized equipment for the following purposes:
   a. Locating for a valid notification request or for the minor repair, connection, or routine maintenance of an existing facility or survey pin.
   b. Probing underground to determine the extent of gas or water migration.

(6) An excavation or demolition performed for the purpose of maintenance activities within the right-of-way. Maintenance activities shall include emergency replacement of signs critical for maintaining safety or reshaping of shoulders and ditches to the original road profile. Maintenance activities do not include the initial installation of traffic signs, traffic control equipment, guardrails, or drainage structures. The provisions of this subdivision do not apply when the excavation or demolition is performed by a contractor acting on behalf of a person or entity responsible for routine maintenance of a right-of-way.

(7) An excavation or demolition performed by a railroad entirely on land which the railroad owns or operates or, in the event of an emergency, on adjacent land. No provision in this Article shall apply to any railroad which owns, operates, or permits facilities under land which the railroad owns or operates.

(8) An excavation of a grave space, as defined in G.S. 65-48(10), the installation of a monument or memorial at a grave space, or an excavation related to the placement of a temporary structure or tent by a cemetery regulated under Chapter 65 of the General Statutes that does not encroach on any operator's right-of-way, easement, or permitted use.

(9) Pavement milling and pavement resurfacing. (2013-407, s. 2; 2017-57, s. 34.40(a); 2019-189, s. 1; 2025-21, s. 4.)

§ 87-125. Notice in case of emergency excavation or demolition.

(a) An excavator performing an emergency excavation or demolition is not required to give notice to the Notification Center as provided in G.S. 87-122. However, the excavator shall, as soon as practicable, give notice to the Notification Center which shall include a description of the circumstances justifying the emergency. The excavator may request emergency assistance from each affected operator in locating and providing immediate protection to the facilities in the affected area.

(b) The declaration of an emergency excavation or demolition shall not relieve any party of liability for causing damage to an operator's facilities even if those facilities are unmarked.

(c) Any person who falsely claims that an emergency exists requiring an excavation or demolition shall have violated the provisions of this Article, which shall be punishable as a Class 3 misdemeanor and may subject the violator to the imposition of penalties or other action to be taken by the Board pursuant to G.S. 87-129. (2013-407, s. 2; 2019-189, s. 1.)

§ 87-126. Notification required when damage is done.

(a) The excavator performing an excavation or demolition that results in any damage to a facility shall immediately upon discovery of the damage notify the Notification Center and the facility operator, if known, of the location and nature of the damage. The excavator shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the facility. The excavator shall delay any backfilling in the

immediate area of the damaged facility until authorized by the operator. The operator or qualified personnel authorized by the operator shall repair any damage to the facility.

(b) An excavator who is responsible for an excavation or demolition where any damage to a facility results in the discharge of electricity or escape of any flammable, toxic, or corrosive gas or liquid, or that endangers life, health, or property shall immediately notify emergency responders, including 911 services, the Notification Center, and the facility operator. The excavator shall take reasonable measures to protect himself or herself, other persons in immediate danger, members of the general public, property, and the environment until the operator or emergency responders arrive and complete an assessment of the situation.

(c) The venue for claims adjudication for actual and consequential damages occurring in North Carolina shall be held within the North Carolina court system in the county of the occurrence. (2013-407, s. 2; 2025-21, s. 5.)

§ 87-127. Design notices.

(a) A designer may submit a design notice to the Notification Center. The design notice shall describe the tract or parcel of land for which the design notice has been submitted with sufficient particularity, as defined by policies and procedures adopted by the Notification Center, to allow the operator to ascertain the precise tract or parcel of land involved.

(b) Within 10 working days, not including the day the notice was given, after a design notice for a proposed project has been submitted to the Notification Center, the operator shall respond in one of the following manners:

(1) By designating the location of all facilities owned by the operator within the area designated by the design notice as provided in G.S. 87-121(a).

(2) By providing to the person submitting the design notice the best available description of all facilities in the area designated by the design notice, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator.

(3) Allowing the person submitting the design notice or any other authorized person to inspect the drawings or other records for all facilities within the area designated by the design notice at a location that is acceptable to the operator.

(c) An operator may reject a design notice based upon homeland security considerations pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the request through a design notice of the denial and may request additional information through the positive response system. (2013-407, s. 2; 2019-189, s. 1.)

§ 87-128. Absence of facility location.

If an operator who has been given notice as provided in G.S. 87-120(d) by the Notification Center fails to respond to that notice as provided in G.S. 87-121 or fails to properly locate the facility, the person excavating is free to proceed with the excavation and neither the excavator nor the person financially responsible for the excavation will be liable to the nonresponding or improperly responding operator for damages to the operator's facilities so long as the excavator has exercised due care in preparing for or conducting the excavation. For the purposes of this section, the excavator shall be entitled to a presumption, rebuttable by clear and convincing evidence, that it has exercised due care in preparing for or conducting the excavation where (i) the Notification

Center gives the operator the notice required in G.S. 87-120(d), (ii) the operator fails to respond to that notice as provided in G.S. 87-121 or fails to properly locate the facility, (iii) the excavator has complied with the requirements of G.S. 87-122(c), and (iv) the excavator did not have actual knowledge of the existence of a facility located within the area of the excavation to be performed. (2013-407, s. 2; 2025-21, s. 6.)

§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.

(a) There is hereby established the Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of 15 members as follows:

(1) A representative from the North Carolina Department of Transportation;
(2) A representative from a facility contract locator;
(3) A representative from the Notification Center;
(4) A representative from an electric public utility;
(5) A representative from the telecommunications industry;
(6) A representative from a natural gas utility;
(7) A representative from a hazardous liquid transmission pipeline company;
(8) A representative of a municipality, appointed on the recommendation of the League of Municipalities;
(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;
(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;
(11) A surveyor licensed under Chapter 89C of the General Statutes;
(12) A representative from a rural water system, appointed on the recommendation of the North Carolina Rural Water Association;
(13) A representative from an investor-owned water system;
(14) A representative from an electric membership corporation; and
(15) A representative from a cable company, appointed on the recommendation of the North Carolina Cable Telecommunications Association.

(a1) Each member of the Board shall be appointed for a term of four years. Members of the Board may serve no more than two consecutive terms. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term. To the extent practicable, the Governor shall fill any vacancy in the Board within 60 days after the vacancy.

(a2) No member of the Board may serve on a case where there would be a conflict of interest.

(a3) The Governor may remove any member at any time for cause.

(a4) A quorum is met when the majority of seated members are present. Board members may appear at meetings by simultaneous communication via conference telephone or other electronic means.

(a5) The Governor shall designate one member of the Board as chair.

(a6) The Board may adopt rules to implement this Article.

(a7) The Board shall establish an internal attendance policy. In the event a Board member resigns or fails to meet the criteria of the attendance policy, the Board may appoint an interim

member to represent the same stakeholder group until such time as the Governor appoints a replacement for the unexpired term.

(a8) On request of the Board, the Utilities Commission shall appoint a nonvoting ex officio member as an administrative representative to provide counsel and coordinate efforts of the Board.

(b) The Board shall receive reports of alleged violations of this Article. The Board shall contact persons against whom reports have been filed to inform them of the alleged violation within 15 working days of the filing of the report. The Board shall maintain all of the following information regarding reports of alleged violations:

(1) The name, address, and telephone number of the person making the report;
(2) The nature of the report, including the statute that is alleged to have been violated;
(3) Information provided by the person making the report, including correspondence, both written and electronic, pictures, and videos; and
(4) Information provided by the person against whom the report has been filed, including correspondence, both written and electronic, pictures, and videos.

(b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars ($2,500). The Board shall approve training courses and the sponsors of those training courses under this subsection. Any fees for training courses approved by the Board shall be paid by the person determined to have violated this Article. The Board shall notify within 30 days each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(b2) Notwithstanding Chapter 150B of the General Statutes, a person determined to be in violation of this Article may request an informal conference before the Board by notifying the Board in writing within 30 days of the Board's determination. Such a person must attend the informal conference in person. They may be represented by an attorney or other person and may present evidence and make arguments in favor of their position. Following the informal conference, the Board may reverse, modify, or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty within 30 days of notification by the Board.

(c) A person determined by the Board under subsection (b1) of this section to have violated this Article may appeal the Board's determination by initiating an arbitration proceeding before the Utilities Commission within 30 days of the Board's determination following the informal conference. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process,

including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party.

(c1) A person may timely appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial de novo within 30 days of entry of the Utilities Commission's order. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. In any arbitration proceeding before the Utilities Commission, any actions and penalties assessed against any person for violation of this Article shall include the actions and penalties set out in subsection (b1) of this section.

(d1) The Utilities Commission shall annually report to the Board compliance of persons on whom fines or penalties have been imposed under this Article.

(d2) If the amount of the penalty is not paid to the Utilities Commission within 90 days of the Utilities Commission issuing the order, the Attorney General, at the request of the Utilities Commission, shall bring an action in the name of the State of North Carolina in the Superior Court for Wake County to recover the penalty. The action shall not commence until after the time has expired for an appeal from the findings, conclusions, and order of the Utilities Commission.

(e) The Board is authorized to employ contractors or other personnel as it may deem necessary to carry out the provisions of this Article.

(f) The Board shall maintain a record of reports of alleged violations of this Article received under subsection (b) of this section for at least four years, including responses to such reports.

(g) On request of the Board, the Attorney General's office shall assign a legal representative to provide legal counsel to the Board. (2013-407, s. 2; 2015-286, s. 3.12; 2019-189, s. 1; 2025-21, s. 7.)

§ 87-129.1. Fee to defray operating costs.

The Board is authorized to impose an annual fee on operators in order to provide sufficient moneys to fund the activities and operations of the Board in reviewing reports of alleged violations of this Article. The fee shall be based on volume of notifications provided by the Notification Center to an operator as compared to the total volume of notifications to all operators in the preceding fiscal year and shall be set at a rate determined by the Board such that the total proceeds of all fees collected shall not exceed two hundred thousand dollars ($200,000) annually to fund the activities and operations of the Board. The Board may exclude de minimis contributors from any fee assessment under this subsection. Failure to pay the assessed fee within 30 days of when the fee is due is a violation of this Article, and the Board may seek the imposition of a penalty for the nonpayment under the procedures set forth in G.S. 87-129(b1). (2019-189, s. 1.)

§ 87-130. Severability.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are severable. (2013-407, s. 2.)