

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1299

Short Title: Fire Protection Contractors.

(Public)

Sponsors: Representatives Brawley; Bowie, Brown, Creech, Decker, Grimmer, Privette, and Robinson.

Referred to: Rules.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LICENSURE AND QUALIFICATION OF FIRE PROTECTION CONTRACTORS.

The General Assembly of North Carolina enacts:

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

"§ 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 thirty thousand dollars (\$30,000) or more, shall be deemed to be a 'general contractor' engaged in the business of general contracting in the State of North Carolina.

This ~~section~~-subsection shall not apply to persons or firms or corporations furnishing or erecting industrial equipment, power plant equipment, radial brick chimneys, and monuments.

This ~~section~~-subsection shall not apply to any person or firm or corporation who constructs a building on land owned by that person, firm or corporation when such building is intended for use by that person, firm or corporation after completion.

(b) Notwithstanding the monetary limitation prescribed in subsection (a) of this section, it shall be unlawful for any person, firm, or corporation, for compensation, to undertake to superintend, or manage on his own behalf or for any other person, firm, or

1 corporation that is not licensed as a fire protection contractor pursuant to this Article,
2 the layout, fabrication, installation, altering, or repairing of a fire protection system
3 unless that person, firm, or corporation holds a license as a fire protection contractor.

4 For purposes of this Article:

5 (1) 'Fire protection contractor' means a contractor whose business
6 includes the execution of contracts requiring the ability, experience,
7 knowledge, science, and skill to lay out, fabricate, install, inspect,
8 alter, repair, or service all types of fire protection systems. This
9 definition shall not be construed to prevent a qualified architect or
10 professional engineer from designing any type of fire protection
11 system.

12 (2) A 'fire protection system' consists of an automatic or manual sprinkler
13 system designed to protect the interior or exterior of a building or
14 structure from fire. These systems include, but are not limited to, wet
15 pipe and dry pipe sprinkler systems, water spray systems, foam water
16 sprinkler systems, and foam water spray systems. These systems also
17 include the overhead piping, underground fire mains, valves, fire
18 hydrants, combination standpipes, inside hose connections, air lines,
19 and thermal systems used in connection with the sprinklers, and tanks
20 and pumps connected to them.

21 This subsection shall not apply to owners of property who are building or improving
22 farm outbuildings nor is a licensed plumbing contractor required to be certified under
23 this subsection to install standpipe systems having no connection with an automatic
24 sprinkler system."

25 Sec. 2. G.S. 87-10 reads as rewritten:

26 **"§ 87-10. Application for license; examination; certificate; renewal.**

27 Anyone seeking to be licensed as a general contractor or as a fire protection
28 contractor in this State shall file an application for an examination on a form provided
29 by the Board, ~~at least 30 days before any regular or special meeting of the Board on or before~~
30 the first day of the month immediately preceding the month in which the examination is
31 given, accompanied by an examination fee of twenty-five dollars (\$25.00) and by the
32 sum of one hundred dollars (\$100.00) if the application is for an unlimited license, the
33 sum of seventy-five dollars (\$75.00) if the application is for an intermediate license~~or,~~
34 the sum of fifty dollars (\$50.00) if the application is for a limited license, or the sum of
35 one hundred dollars (\$100.00) if the application is for a fire protection contractor's
36 license; the fees and sum accompanying any application shall be nonrefundable. The
37 holder of an unlimited license shall be entitled to act as general contractor without
38 restriction as to value of any single project; the holder of an intermediate license shall
39 be entitled to act as general contractor for any single project with a value of up to five
40 hundred thousand dollars (\$500,000); the holder of a limited license shall be entitled to
41 act as general contractor for any single project with a value of up to one hundred
42 seventy-five thousand dollars (\$175,000); a fire protection contractor shall be entitled to
43 do all things authorized in G.S. 87-1(b); and the license certificate shall be classified in
44 accordance with this section. Before being entitled to an examination an applicant must

1 show to the satisfaction of the Board from the application and proofs furnished that the
2 applicant is possessed of a good character and is otherwise qualified as to competency,
3 ~~ability ability, and integrity, integrity, and financial stability,~~ and that the applicant has
4 not committed or done any act, which, if committed or done by any licensed contractor
5 would be grounds under the provisions hereinafter set forth for the suspension or
6 revocation of contractor's license, or that the applicant has not committed or done any
7 act involving dishonesty, fraud, or deceit, or that the applicant has never been refused a
8 license as a general contractor or as a fire protection contractor, nor had such license
9 revoked, either in this State or in another state, for reasons that should preclude the
10 granting of the license applied for, and that the applicant has never been convicted of a
11 felony involving moral turpitude, relating to building or contracting, or involving
12 embezzlement or misappropriation of funds or property entrusted to the applicant:
13 Provided, no applicant shall be refused the right to an examination, except in
14 accordance with the provisions of Chapter ~~150A-150B~~ of the General Statutes.

15 The Board shall conduct an examination, either oral or written, of all applicants for
16 license to ascertain the ability of the applicant to make a practical application of his
17 knowledge of the profession of contracting, under the classification contained in the
18 application, and to ascertain the qualifications of the applicant in reading plans and
19 specifications, knowledge of estimating costs, construction, ethics and other similar
20 matters pertaining to the contracting business and knowledge of the applicant as to the
21 responsibilities of a contractor to the public and of the requirements of the laws of the
22 State of North Carolina relating to contractors, construction and liens. The examination
23 for a fire protection contractor shall include such materials as would test the
24 competency of the applicant and which would meet national uniform competency
25 requirements or the equivalent of National Institute for Certification of Engineering
26 Technicians Level III. If the results of the examination of the applicant shall be
27 satisfactory to the Board, then the Board shall issue to the applicant a certificate to
28 engage as a general contractor or as a fire protection contractor, as applicable, in the
29 State of North Carolina, as provided in said certificate, which may be limited into five
30 classifications as the common use of the terms are known—that is,

- 31 (1) Building contractor, which shall include private, public, commercial,
32 industrial and residential buildings of all types;
33 (1a) Residential contractor, which shall include any general contractor
34 constructing only residences which are required to conform to the
35 North Carolina Uniform Residential Building Code (Vol. 1-B);
36 (2) Highway contractor;
37 (3) Public utilities contractors, which shall include those whose operations
38 are the performance of construction work on the following
39 subclassifications of facilities:
40 a. Water and sewer mains and water service lines and house and
41 building sewer lines as defined in the North Carolina State
42 Building Code, and water storage tanks, lift stations, pumping
43 stations, and appurtenances to water storage tanks, lift stations
44 and pumping stations;

- 1 b. Water and wastewater treatment facilities and appurtenances
2 thereto;
- 3 c. Electrical power transmission facilities, and primary and
4 secondary distribution facilities ahead of the point of delivery of
5 electric service to the customer;
- 6 d. Public communication distribution facilities; and
- 7 e. Natural gas and other petroleum products distribution facilities;
8 provided the General Contractors Licensing Board may issue
9 license to a public utilities contractor limited to any of the
10 above subclassifications for which the general contractor
11 qualifies, and
- 12 (4) Specialty contractor, which shall include those whose
13 operations as such are the performance of construction work
14 requiring special skill and involving the use of specialized
15 building trades or crafts, but which shall not include any
16 operations now or hereafter under the jurisdiction, for the
17 issuance of license, by any board or commission pursuant to the
18 laws of the State of North Carolina.
- 19 (5) Fire protection contractor means any person, firm, corporation,
20 partnership, or proprietorship, or any other business that offers
21 to undertake, represents itself to undertake, or does undertake
22 the layout, sale, inspection, installation, maintenance, or
23 servicing of a fire protection system, or any part of a system, as
24 defined in G.S. 87-1(b).
25

26 Public utilities contractors constructing water service lines and house and building
27 sewer lines as provided in (3)a. above shall terminate said lines at a valve, box, meter,
28 or manhole or cleanout at which the facilities from the building may be connected.

29 If an applicant is an individual, examination may be taken by his personal
30 appearance for examination, or by the appearance for examination of one or more of his
31 responsible managing employees, and if a copartnership or corporation, or any other
32 combination or organization, by the examination of one or more of the responsible
33 managing officers or members of the personnel of the applicant, and if the person so
34 examined shall cease to be connected with the applicant, then in such event the license
35 shall remain in full force and effect for a period of 30 days thereafter, and then be
36 canceled, but the applicant shall then be entitled to a reexamination, all pursuant to the
37 rules to be promulgated by the Board: Provided, that the holder of such license shall not
38 bid on or undertake any additional contracts from the time such examined employee
39 shall cease to be connected with the applicant until said applicant's license is reinstated
40 as provided in this Article.

41 Anyone failing to pass this examination may be reexamined at any regular meeting
42 of the Board upon payment of an examination fee of twenty-five dollars (\$25.00).
43 Anyone requesting to take the examination a third or subsequent time shall submit a
44 new application with the appropriate examination and license fees. Certificate of license

1 shall expire on the 31st day of December following the issuance or renewal and shall
2 become invalid 60 days from that date unless renewed, subject to the approval of the
3 Board. Renewals may be effected any time during the month of January without
4 reexamination, by the payment of a fee to the secretary of the Board of seventy-five
5 dollars (\$75.00) for unlimited ~~license~~, license or a fire protection contractor's license,
6 fifty dollars (\$50.00) for intermediate license and twenty-five dollars (\$25.00) for
7 limited license. Renewal applications received by the Board after January shall be
8 accompanied by a late payment of ten dollars (\$10.00) for each month or part after
9 January. After a lapse of two years no renewal shall be effected and the applicant shall
10 fulfill all requirements of a new applicant as set forth in this section.”

11 Sec. 3. G.S. 87-11(a) reads as rewritten:

12 **"§ 87-11. Revocation of license; charges of fraud, negligence, incompetency, etc.;**
13 **hearing thereon; reissuance of certificate.**

14 (a) The Board shall have the power to revoke or suspend the certificate of license
15 of any general contractor or fire protection contractor licensed hereunder or to invoke
16 other disciplinary measures, reprimand, or probative terms against a licensee who is
17 found guilty of any fraud or deceit in obtaining a license, or gross negligence,
18 incompetency or misconduct in the practice of his profession, or willful violation of any
19 provisions of this Article. Any person may prefer charges of such fraud, deceit,
20 negligence or misconduct against any general contractor or fire protection contractor
21 licensed hereunder; such charges shall be in writing and sworn to by the complainant
22 and submitted to the Board. Such charges, ~~unless dismissed without hearing by the Board as~~
23 ~~unfounded or trivial, shall be heard and determined by the Board in accordance with the~~
24 ~~provisions of Chapter 150A of the General Statutes referred to a review committee~~
25 appointed by the chairman and composed of one Board member, legal counsel to the
26 Board, and the secretary-treasurer. The review committee shall determine, (i) whether
27 the charges should be dismissed without hearing as unfounded or trivial, (ii) should
28 remain pending for further investigation or for disposition of criminal or civil
29 proceedings involving the same charges, or (iii) should be heard and determined by the
30 Board in accordance with the provisions of Chapter 150B of the General Statutes."

31 Sec. 4. G.S. 87-12 reads as rewritten:

32 **"§ 87-12. Certificate evidence of license.**

33 The issuance of a certificate of license or limited license by this Board shall be
34 evidence that the person, firm, or corporation named therein is entitled to all the rights
35 and privileges of a licensed or limited licensed general contractor or fire protection
36 contractor while said license remains unrevoked or unexpired. A licensed general
37 contractor or fire protection contractor holding a license which qualifies him for work as
38 described in G.S. 87-10 shall be authorized to perform the said work without any
39 additional occupational license, notwithstanding the provisions of any other
40 occupational licensing statute. A license issued by any other occupational licensing
41 board having jurisdiction over any work described in G.S. 87-10 shall qualify such
42 licensee to perform the work for which the license qualifies him without obtaining the
43 license from the General Contractors Licensing Board. Nothing contained herein shall
44 operate to relieve any general contractor or fire protection contractor from the necessity

1 of compliance with other provisions of the law requiring building permits and
2 construction in accordance with appropriate provisions of the North Carolina State
3 Building Code."

4 Sec. 5. G.S. 87-13 reads as rewritten:

5 **"§ 87-13. Unauthorized practice of contracting; impersonating contractor; false**
6 **certificate; giving false evidence to Board; penalties.**

7 Any person, firm, or corporation not being duly authorized who shall contract for or
8 bid upon the construction of any of the projects or works enumerated in G.S. 87-1,
9 without having first complied with the provisions hereof, or who shall attempt to
10 practice general contracting or fire protection contracting in the State, except as
11 provided for in this Article, and any person, firm, or corporation presenting or
12 attempting to file as his own the licensed certificate of another or who shall give false or
13 forged evidence of any kind to the Board or to any member thereof in maintaining a
14 certificate of license or who falsely shall impersonate another or who shall use an
15 expired or revoked certificate of license, and any architect or engineer who recommends
16 to any project owner the award of a contract to anyone not properly licensed under this
17 Article, shall be deemed guilty of a misdemeanor and shall for each such offense of
18 which he is convicted be punished by a fine of not less than five hundred dollars
19 (\$500.00) or imprisonment of three months, or both fine and imprisonment in the
20 discretion of the court. And the Board may, in its discretion, use its funds to defray the
21 expense, legal or otherwise, in the prosecution of any violations of this Article. No
22 architect or engineer shall be guilty of a violation of this section if his recommendation
23 to award a contract is made in reliance upon current written information received by
24 him from the appropriate Contractor Licensing Board of this State which information
25 erroneously indicates that the contractor being recommended for contract award is
26 properly licensed."

27 Sec. 6. G.S. 87-14 reads as rewritten:

28 **"§ 87-14. Regulations as to issue of building permits.**

29 Any person, firm or corporation, upon making application to the building inspector
30 or such other authority of any incorporated city, town or county in North Carolina
31 charged with the duty of issuing building or other permits for the construction of any
32 building, highway, sewer, grading or any improvement or structure where the cost
33 thereof is to be thirty thousand dollars (\$30,000) or more, or for the installation of a fire
34 protection system regardless of cost, shall, before he be entitled to the issuance of such
35 permit, furnish satisfactory proof to such inspector or authority that he or another person
36 contracting to superintend or manage the construction is duly licensed under the terms
37 of this Article to carry out or superintend the same, and that he has paid the license tax
38 required by the Revenue Act of the State of North Carolina then in force so as to be
39 qualified to bid upon or contract for the work for which the permit has been applied; and
40 it shall be unlawful for such building inspector or other authority to issue or allow the
41 issuance of such building permit unless and until the applicant has furnished evidence
42 that he is either exempt from the provisions of this Article or is duly licensed under this
43 Article to carry out or superintend the work for which permit has been applied; and
44 further, that the applicant has paid the license tax required by the State Revenue Act

1 then in force so as to be qualified to bid upon or contract for the work covered by the
2 permit; and such building inspector, or other such authority, violating the terms of this
3 section shall be guilty of a misdemeanor and subject to a fine of not more than fifty
4 dollars (\$50.00).

5 Notwithstanding this section, all bids, advertising, promotions, or solicitations for
6 the sale, installation, maintenance or service of fire protection systems as defined in this
7 Article shall prominently indicate the license number of the fire protection contractor
8 and it shall be unlawful to issue a design or plan without the registration number of the
9 fire protection contractor affixed thereon."

10 Sec. 7. G.S. 87-15.1 reads as rewritten:

11 "**§ 87-15.1. Reciprocity of licensing.**

12 To the extent that other states which provide for the licensing of general contractors
13 or fire protection contractors provide for similar action, the Board in its discretion may
14 grant licenses of the same or equivalent classification to general contractors or fire
15 protection contractors licensed by other states, without written examination upon
16 satisfactory proof furnished to the Board that the qualifications of such applicants are
17 equal to the qualifications of holders of similar licenses in North Carolina and upon
18 payment of the required fee."

19 Sec. 8. Chapter 87 of the General Statutes is amended by adding new
20 sections to read:

21 "**§ 87-15.3. Financial responsibility.**

22 A surety bond executed by the applicant and a surety company authorized to do
23 business in this State made payable to the State of North Carolina in the amount of ten
24 thousand dollars (\$10,000) must be provided along with the application for certificate of
25 registration as a fire protection contractor. This bond shall be for the use and benefit of
26 any person who may be injured or aggrieved by a wrongful act or omission of an
27 employee, servant, officer, or agent in the conduct of the business of the fire protection
28 contractor."

29 "**§ 87-15.4. Application for licensure as a fire protection contractor.**

30 An application for licensure as a fire protection contractor must be filed on or before
31 the 31st day of December 1989, on forms prepared by the Board, and each applicant
32 must take and pass an examination as prescribed by the Board pursuant to this Article
33 within 18 months after the effective date of this Article. However, any applicant who
34 has successfully passed the examination for certification by the National Institute for the
35 Certification of Engineering Technicians Level I, II, and III and has been practicing in
36 this State for a period of one year prior to the effective date of this Article, need not take
37 an examination, provided satisfactory proof of the certification and practice is furnished
38 to the Board."

39 Sec. 9. This act shall become effective October 1, 1989.