

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 47
Committee Substitute Favorable 3/1/95
Committee Substitute #2 Favorable 4/19/95

Short Title: Amend Electrical Contractors Law/AB.

(Public)

Sponsors:

Referred to:

January 30, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS AMENDMENTS TO THE LAW REGARDING THE
3 LICENSING OF ELECTRICAL CONTRACTORS.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 87-39. Board of Examiners; appointment; terms; ~~chairman;~~ chair; meetings;**
7 **quorum; principal office; compensation; oath.**

8 (a) The State Board of Examiners of Electrical Contractors shall continue as the
9 State agency responsible for the licensing of persons engaging in electrical contracting
10 within this State, and shall consist of one member from the North Carolina Department of
11 Insurance to be designated by the Commissioner of Insurance; one member who has
12 satisfied the requirements for an unlimited license as defined in G.S. 87-43.3 and who is a
13 representative of the North Carolina Association of Electrical Contractors to be
14 designated by the governing body of that organization; and five members to be appointed
15 by the Governor: one from the faculty of The Greater University of North Carolina who
16 teaches or does research in the field of electrical engineering, one who is serving as a
17 chief electrical inspector of a municipality or county in North Carolina, one who has
18 satisfied the requirements for an unlimited license as defined in G.S. 87-43.3 and who is a

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

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

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

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

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

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

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

36 "**§ 87-40. Secretary-treasurer.**

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

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

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

7 **"§ 87-43.4. Residential dwelling license.**

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

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

17 **"§ 87-47. ~~Jurisdiction of Board.~~ Penalties imposed by Board; enforcement procedures.**

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

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

24 (1) ~~Offering to engage or engaging in electrical contracting without being~~
25 ~~licensed;~~ licensed.

26 (2) ~~Selling, transferring, or assigning a license, regardless of whether for a~~
27 ~~fee;~~ fee.

28 (3) ~~Aiding or abetting an unlicensed person, partnership, firm, or~~
29 ~~corporation to offer to engage or to engage in electrical contracting;~~
30 contracting.

31 (4) ~~A~~ Being convicted of a crime involving fraud or moral turpitude by
32 ~~conviction thereof;~~ turpitude.

33 (5) ~~Fraud or misrepresentation in obtaining a certification, in obtaining or~~
34 ~~renewing a license, or in the practice of electrical contracting;~~ Engaging
35 in fraud or misrepresentation to obtain a certification, obtain or renew a
36 license, or practice electrical contracting.

37 (6) ~~False~~ Engaging in false or misleading advertising; ~~or advertising.~~

38 (7) ~~Malpractice;~~ Engaging in malpractice, unethical conduct, fraud, deceit,
39 gross negligence, gross incompetence, or gross misconduct in the
40 practice of electrical ~~contracting;~~ contracting.

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

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

6 (1) ~~Reprimand;~~ Reprimand.

7 (2) Suspension from practice for a period not to exceed 12 ~~months;~~ months.

8 (3) Revocation of the right to serve as a listed qualified individual on any
9 license issued by the ~~Board;~~ Board.

10 (4) Revocation of ~~license;~~ and license.

11 (5) Probationary revocation of license or the right to serve as a listed
12 qualified individual on any license issued by the Board, upon conditions
13 set by the Board as the case ~~shall warrant, with warrants,~~ and revocation
14 upon failure to comply with the conditions.

15 (6) Revocation of certification.

16 (7) Refusal to certify an applicant or a qualified individual.

17 (8) Refusal to issue a license to an applicant.

18 (9) Refusal to renew a license.

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

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

26 (1) The degree and extent of harm to the public safety or to property, or the
27 potential for harm.

28 (2) The duration and gravity of the violation.

29 (3) Whether the violation was committed willfully or intentionally, or
30 reflects a continuing pattern.

31 (4) Whether the violation involved elements of fraud or deception either to
32 the public or to the Board, or both.

33 (5) The violator's prior disciplinary record with the Board.

34 (6) Whether and the extent to which the violator profited by the violation.

35 (a3) ~~(a4) The Board shall, in accordance with Chapter 150B of the General Statutes,~~
36 formulate rules of procedure governing the hearings of charges against applicants,
37 qualified individuals and licensees. Any ~~person~~ person, including the Board and its staff
38 on their own initiative, may prefer charges against any applicant, qualified individual, or
39 licensee, pursuant to this section, and such charges must be ~~sworn to by the complainant~~
40 and submitted in writing to the Board. The Board may, without a hearing, dismiss
41 charges as unfounded or trivial. The Board may issue a notice of violation based on the
42 charges, to be served by a member of the Board's staff or in accordance with Rule 4 of
43 the Rules of Civil Procedure, against any person, partnership, firm, or corporation for

1 engaging in an activity prohibited under subsection (a1) of this section or for a violation
2 of the provisions of this Article or any rule adopted by the Board. The person or other
3 entity to whom the notice of violation is issued may request a hearing by notifying the
4 Board in writing within 20 days after being served with the notice of violation. Hearings
5 shall be conducted by the Board or an administrative law judge pursuant to Article 3A of
6 Chapter 150B of the General Statutes. In conducting ~~hearings of charges, hearings,~~ the
7 Board may remove the hearings to any county in which the offense, or any part thereof,
8 was committed if in the opinion of the Board the ends of justice or the convenience of
9 witnesses require such removal.

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

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

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

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

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

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

39 Sec. 5. Notwithstanding the provisions of G.S. 87-39 to the contrary, the terms
40 of the members serving on the Board on the effective date of this section shall, in order to
41 establish a staggered term system, expire upon completion of those terms and the
42 following shall apply for the following appointments: the term of one member who
43 represents the interest of the public at large shall expire June 30, 2004; the term of the

1 member who is a representative of the North Carolina Association of Electrical
2 Contractors shall expire June 30, 2005; the term of the member who is serving as a chief
3 electrical inspector of a municipality or county in North Carolina shall expire June 30,
4 2006; and the remaining appointments shall expire seven years after their successors'
5 terms expire. Thereafter all terms shall be seven years in accordance with the provisions
6 of G.S. 87-39, as amended by Section 1 of this act.

7 Members serving terms less than seven years for the purpose of establishing
8 staggered terms under this section are not serving complete terms for purposes of G.S.
9 87-39(e), as amended by Section 1 of this act, and are eligible for redesignation or
10 appointment to the Board.

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

12 **"§ 87-43.3. Classification of licenses.**

13 An electrical contracting license shall be issued in one of the following classifications:
14 Limited, under which a licensee shall be permitted to engage in a single electrical
15 contracting project of a value not in excess of ~~seventeen thousand five hundred dollars~~
16 ~~(\$17,500)~~ twenty-five thousand dollars (\$25,000) and on which the equipment or
17 installation in the contract is rated at not more than 600 volts; Intermediate, under which
18 a licensee shall be permitted to engage in a single electrical contracting project of a value
19 not in excess of seventy-five thousand dollars (\$75,000); Unlimited, under which a
20 licensee shall be permitted to engage in any electrical contracting project regardless of
21 value; and such other special Restricted classifications as the Board may establish from
22 time to time to provide, (i) for the licensing of persons, partnerships, firms or
23 corporations wishing to engage in special restricted electrical contracting, under which
24 license a licensee shall be permitted to engage only in a specific phase of electrical
25 contracting of a special, limited nature, and (ii) for the licensing of persons, partnerships,
26 firms or corporations wishing to engage in electrical contracting work as an incidental
27 part of their primary business, which is a lawful business other than electrical contracting,
28 under which license a licensee shall be permitted to engage only in a specific phase of
29 electrical contracting of a special, limited nature directly in connection with said primary
30 business. The Board may establish appropriate standards for each classification, such
31 standards not to be inconsistent with the provisions of G.S. 87-42."

32 Sec. 7. Sections 1 and 5 of this act become effective January 1, 1997. Sections
33 3 and 6 of this act become effective July 1, 1995, and apply to electrical contracting
34 projects commenced on or after that date. The remaining sections of this act become
35 effective December 1, 1995.