

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 908\***

Short Title: Homebuilder Responsibility.

(Public)

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Sponsors: Senators Clodfelter; Lucas and Thomas.

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Referred to: Judiciary I.

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April 5, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO STRENGTHEN THE LAWS REGULATING GENERAL  
3 CONTRACTORS AND TO INCREASE THE LICENSURE REQUIREMENTS  
4 FOR RESIDENTIAL BUILDING CONTRACTORS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 87-1 reads as rewritten:

7 "**§ 87-1. "General contractor" defined; exceptions.**

8 For the purpose of this Article any person or firm or corporation who for a fixed  
9 price, commission, fee, or wage, undertakes to bid upon or to construct or who  
10 undertakes to superintend or manage, on his own behalf or for any person, firm, or  
11 corporation that is not licensed as a general contractor pursuant to this Article, the  
12 construction of any building, highway, public utilities, grading or any improvement or  
13 structure where the cost of the undertaking is ~~thirty thousand dollars (\$30,000)~~ fifteen  
14 thousand dollars (\$15,000) or more, or undertakes to erect a North Carolina labeled  
15 manufactured modular building meeting the North Carolina State Building Code, shall  
16 be deemed to be a "general contractor" engaged in the business of general contracting in  
17 the State of North Carolina.

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

21 This section shall not apply to any person or firm or corporation who constructs or  
22 alters a building on land owned by that person, firm or corporation provided such  
23 building is intended solely for occupancy by that person and his family, firm, or  
24 corporation after completion; and provided further that, if such building is not occupied  
25 solely by such person and his family, firm, or corporation for at least 12 months  
26 following completion, it shall be presumed that the person, firm, or corporation did not  
27 intend such building solely for occupancy by that person and his family, firm, or  
28 corporation.

1 This section shall not apply to any person engaged in the business of farming who  
2 constructs or alters a building on land owned by that person and used in the business of  
3 farming, when such building is intended for use by that person after completion."

4 **SECTION 2.** G.S. 87-11(a) reads as rewritten:

5 "(a) The Board shall have the power to ~~revoke~~ revoke, suspend, refuse to renew or  
6 restrict the certificate of license of any general contractor licensed hereunder who is  
7 found guilty ~~of~~ of:

8 (1) ~~any~~ Any fraud or deceit in obtaining a ~~license, or~~ license.

9 (2) ~~gross~~ Gross negligence, incompetency or misconduct in the practice of  
10 his ~~profession, or~~ profession.

11 (3) Violation of the State Building Code that creates a substantial risk of  
12 personal injury or substantial property damage.

13 (4) Failure to take corrective action ordered by the Board. With the  
14 consent of the complainant, the Board may order a licensee to take  
15 corrective action in those cases involving residential construction  
16 where the Board finds, after notice and hearing as provided for in  
17 Chapter 150B of the General Statutes, a violation of subdivisions (2)  
18 or (3) above. Corrective action may not be ordered by the Board  
19 during the pendency of any civil action arising from the same facts or  
20 circumstances alleged in the notice of hearing. For purposes of this  
21 section, residential construction is defined as any construction activity  
22 required to conform to the residential building code adopted by the  
23 North Carolina State Building Code Council pursuant to G.S. 143-138.

24 (5) ~~willful~~ Willful violation of any provisions of this Article.

25 The Board shall also have the power to revoke, suspend, or restrict the ability of any  
26 person to act as a qualifying party for a license to practice general contracting, as  
27 provided in G.S. 87-10(c), for any copartnership, corporation, or any other organization  
28 or combination, if this person committed any act in violation of the provisions of this  
29 section, and the Board may take disciplinary action against the individual license held  
30 by that person.

31 Any person may prefer charges of such fraud, deceit, negligence or misconduct  
32 against any general contractor licensed hereunder; such charges shall be in writing and  
33 sworn to by the complainant and submitted to the Board. Such charges, unless  
34 dismissed without hearing by the Board as unfounded or trivial, shall be heard and  
35 determined by the Board in accordance with the provisions of Chapter 150B of the  
36 General Statutes."

37 **SECTION 3.** G.S. 87-15.5(6) reads as rewritten:

38 "(6) Reimbursable loss. -- A monetary loss that meets all of the following  
39 requirements:

40 a. Results from dishonest or incompetent conduct by a general  
41 contractor in constructing or altering a single-family residential  
42 dwelling unit.

43 b. Is not paid, in whole or in part, by or on behalf of the general  
44 contractor whose conduct caused the loss. For purposes of this

1 subparagraph, a monetary loss is not paid in whole or in part  
2 where the applicant has recovered less than ten percent (10%)  
3 of the judgement against the general contractor or the  
4 applicant's claim in bankruptcy.

5 c. Is not covered by a bond, a surety agreement, or an insurance  
6 contract."

7 **SECTION 4.** G.S. 87-15.6(b) reads as rewritten:

8 "(b) Whenever a general contractor applies for the issuance of a permit for the  
9 construction of any single-family residential dwelling unit or for the alteration of an  
10 existing single-family residential dwelling unit, a city or county building inspector shall  
11 collect from the general contractor a fee in the amount of ~~five-ten~~ dollars ~~-\$5.00~~  
12 ~~(\$10.00)~~ for each dwelling unit to be constructed or altered under the permit. The city or  
13 county inspector shall forward ~~four-eight~~ dollars ~~(\$4.00)~~ ~~(\$8.00)~~ of each fee collected to  
14 the Board on a quarterly basis and the city or county may retain ~~one dollar~~ ~~(\$1.00)~~ ~~two~~  
15 ~~dollars~~ ~~(\$2.00)~~ of each fee collected. The Board shall deposit the fees received into the  
16 Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall  
17 not apply to the Fund.

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

22 **SECTION 5.** Chapter 87 of the General Statutes is amended by adding a  
23 new Article 1B to read:

24 "Article 1B.

25 "Homebuilder Responsibility Act.

26 **"§ 87-15.13. Title, purpose.**

27 The General Assembly finds that the outstanding natural and cultural resources,  
28 educational, employment, and recreational opportunities, and other values of the State  
29 have made it one of the most attractive places in the nation to live. The General  
30 Assembly finds that the present population growth and anticipated future growth of the  
31 State has created tremendous opportunities in the residential construction business. This  
32 growth also has placed pressure on existing resources, including trained labor,  
33 appropriate homesites, and governmental inspection agencies. The General Assembly  
34 finds that a home constitutes one of the largest purchases most consumers will ever  
35 make and that it is material to the general welfare and public interest that homes be  
36 constructed free from major construction defects and substantial building code  
37 violations. It is the purpose of this act, therefore, to help protect homebuyers from the  
38 losses that result when general contractors and new home vendors engage in dishonest  
39 or incompetent conduct and to ensure that residential homes are constructed in a  
40 workmanlike manner and are free from major construction defects or substantial  
41 violations of the North Carolina State Building Code.

42 **"§ 87-15.14. Definitions.**

43 The following definitions apply to this Article:

44 (1) Board. -- The State Licensing Board for General Contractors.

1           (2) Building contractor. -- Defined in G.S. 87-10.

2           (3) Licensed contractor. -- Any person required to obtain a license as a  
3 general contractor pursuant to Article 1 of Chapter 87 of the General  
4 Statutes.

5           (4) Residential construction. -- Any construction activity required to  
6 conform to the residential building code adopted by the North Carolina  
7 State Building Code Council pursuant to G.S. 143-138.

8           (5) Residential contractor. -- Defined in G.S. 87-10.

9 **"§ 87-15.15. Additional licensing requirements; experience.**

10       The Board shall develop and implement rules establishing minimum experience  
11 requirements for applicants for licensure as general contractors. In establishing the  
12 experience requirements, the Board shall consider both practical and management  
13 experience. The rules adopted by the Board regarding experience requirements shall  
14 provide credit for a portion of any experience requirement for technical training or  
15 certification or for a bachelors or graduate degree in architecture, engineering,  
16 construction management, or related field. The experience requirement shall not exceed  
17 a total of four years. This section shall not apply to persons to whom the Board has  
18 issued a license prior to the effective date of the rules adopted by the Board pursuant to  
19 this section.

20 **"§ 87-15.16. Insurance.**

21       (a) Each contractor licensed as a building contractor or a residential contractor  
22 shall at all times maintain at least the minimum commercial general liability insurance  
23 coverage established by the Board pursuant to subsection (b) of this section.

24       (b) The Board shall adopt rules establishing the amounts commercial general  
25 liability insurance that a licensee performing residential construction shall be required to  
26 carry. In no event shall the Board require insurance coverage in excess of five hundred  
27 thousand dollars (\$500,000) per occurrence. Verification of insurance coverage shall be  
28 made in a manner satisfactory to the Board.

29 **"§ 87-15.17. Homebuilders to list license number.**

30       A contractor licensed as a building contractor or a residential contractor who  
31 advertises the contractor's services in a publication shall include in the publication in  
32 legible type the license number issued to the contractor by the Board."

33       **SECTION 6.** State and local code enforcement officials inspecting existing  
34 residential buildings are encouraged to report to the State Licensing Board for General  
35 Contractors substantial violations of the North Carolina State Building Code found  
36 during the conduct of their inspections. For purposes of this section, a residential  
37 building is one that is required to be constructed in accordance with the requirements of  
38 the Residential Code of the North Carolina State Building Code.

39       **SECTION 7.** This act constitutes a recent act of the General Assembly  
40 within the meaning of G.S. 150B-21.1. The State Licensing Board for General  
41 Contractors may adopt temporary rules to implement the provisions of this act.

42       **SECTION 8.** This act becomes effective January 1, 2002.