

THE NORTH CAROLINA BOARD OF ARCHITECTURE  
21<sup>st</sup> Combined Edition (11/01/2017)

Architectural Practice Act  
Rules of the State Board

**127 West Hargett Street  
Suite 304  
Raleigh, NC 27601**

**(919) 733-9544**

**nba@ncbarch.org  
www.ncbarch.org**

**Members  
As of November 2017**

Robert W. Bishop, AIA, Vice President  
Steven G. Clipp, AIA, Treasurer  
Fred Dodson, Jr – Public Member  
Stephen M. McClure, Public Member, President  
Jimmy L. Norwood, Jr. AIA, Secretary  
Katherine N. Peele, FAIA, Member  
John H. Tabor, FAIA, Member

**Board of Architecture Staff**

Cathe M. Evans  
Executive Director

Julie L. Piatek  
Director of Administration

Tyler D. Barrick  
Firm/CE Compliance Administrator

	PAGE
Law - General Statute 83A. Architects	3
Rules - North Carolina Administrative Code Title 21 Chapter 2 Architecture	9
Other Relative Statutes	33
General Statute 55B – The Professional Corporation Act	
General Statute 57C – The Professional Limited Liability Statute	
General Statute 59 - Partnerships	
Article 3D. Procurement of Architectural, Engineering, and Surveying Services. § 143-64.31. Declaration of public policy. (“Mini-Brooks Act or “Fee Bidding”)	

## Chapter 83A.

### Architects.

#### § 83A-1. Definitions.

When used in this Chapter, unless the context otherwise requires:

- (1) "Architect" means a person who is duly licensed to practice architecture.
- (2) "Board" means the North Carolina Board of Architecture.
- (3) "Corporate certificate" means a certificate of corporate registration issued by the Board recognizing the corporation named in the certificate as meeting the requirements for the corporate practice of architecture.
- (4) "Corporate practice of architecture" means "practice" as defined in G.S. 83A-1(7) by a corporation which is organized or domesticated in this State, and which holds a current "corporate certificate" from this Board.
- (5) "Good moral character" means such character as tends to assure the faithful discharge of the fiduciary duties of an architect to his client. Evidence of lack of such character shall include the willful commission of an offense justifying discipline under this Chapter, the practice of architecture in violation of this Chapter, or of the laws of another jurisdiction, or the conviction of a felony.
- (6) "License" means a certificate of registration issued by the Board recognizing the individual named in the certificate as meeting the requirements for registration under this Chapter.
- (7) "Practice of architecture" means performing or offering to perform or holding oneself out as legally qualified to perform professional services in connection with the design, construction, enlargement or alteration of buildings, including consultations, investigations, evaluations, preliminary studies, the preparation of plans, specifications and contract documents, administration of construction contracts and related services or combination of services in connection with the design and construction of buildings, regardless of whether these services are performed in person or as the directing head of an office or organization. (1915, c. 270, s. 9; C.S., s. 4985; 1941, c. 369, s. 3; 1951, c. 1130, s. 1; 1957, c. 794, ss. 1, 2; 1979, c. 871, s. 1.)

#### § 83A-2. North Carolina Board of Architecture; creation; appointment, terms and oath of members; vacancies; officers; bond of treasurer; notice of meetings; quorum.

(a) The North Carolina Board of Architecture shall have the power and responsibility to administer the provisions of this Chapter in compliance with the Administrative Procedure Act.

(b) The Board shall consist of seven members appointed by the Governor. Five of the members of the Board shall be licensed architects appointed for five year terms; the terms shall be staggered so that the term of one architect member expires each year. No architect member shall be eligible to serve more than two consecutive terms; if a vacancy occurs during a term, the Governor shall appoint a person to fill the vacancy for the remainder of the unexpired term. Two of the members of the Board shall be persons who are not licensed architects and who represent the interest of the public at large; the Governor shall appoint these members not later than July 1, 1979. The public members shall have full voting powers and shall serve at the pleasure of the Governor. Each Board member shall file with the Secretary of State an oath faithfully to perform duties as a member of the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States.

(c) Officers of the Board shall include a president, vice-president, secretary and treasurer elected at the annual meeting for terms of one year. The 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. Notice of the annual meeting, and the time and place of the annual meeting shall be given each member by letter at least 10 days prior to such meeting and public notice of annual meetings shall be published at least once each week for two weeks preceding such meetings in one or more newspapers of general circulation in this State. A majority of the members of the Board shall constitute a quorum. (1915, c. 270, ss. 1, 2; C.S., ss. 4986-4988, 4990; 1957, c. 794, ss. 3, 4, 6; 1979, c. 871, s. 1.)

#### § 83A-3. Expenses of Board members; Board finances.

(a) Each member of the Board shall be entitled to receive travel and expense reimbursement as authorized by G.S. 93B-5 for similar boards.

(b) All funds received by the Board under the provisions of this Chapter shall be deposited by the treasurer or such other officer or staff employee as the Board may designate in such depository and under such security as the Board may direct. All expenses incurred by the Board shall be paid out of funds derived from examination, licensing, renewal or other

fees herein provided and shall be paid by the treasurer upon vouchers drawn by the secretary and approved by the president. The Board shall have the power to determine necessary expenses, and to fix the compensation for board employees and for professional services. The State of North Carolina shall not be liable for the compensation of any Board members or officers. Payment of expenses and salaries pursuant to administration of this Chapter may not exceed available funds of the Board. All Board receipts and disbursements shall be subject to audit and accounting procedures established by the State for similar boards.

(c) 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. Collateral pledged by the Board for an encumbrance shall be limited to the assets, income, and revenues of the Board. (1915, c. 270, s. 6; C.S., s. 4994; 1957, c. 794, s. 9; 1979, c. 871, s. 1; 2013-410, s. 31.)

**§ 83A-4. Fees.**

All fees and charges by the Board shall be established by Board rule subject to the provisions of the Administrative Procedure Act.

Fees set by the Board shall not exceed the following amounts:

Initial Application	
Individual	
Residents	\$50.00
Nonresidents	\$50.00
Corporate	\$75.00
Reexamination	\$25.00
Annual License Renewal	
Individual	\$75.00
Corporate	\$100.00
Late Renewal Penalty	
Up-to-30 days	\$50.00
30 days to 1 year	\$50.00
Reciprocal Registration	\$150.00

The above fees are provided in addition to any other fees prescribed by law. Reasonable fees for examination materials, certificates, rosters and other published materials shall be established by the Board, but the Board shall not collect any fees not authorized by this Chapter. (1915, c. 270, ss. 3, 6; 1919, c. 336, ss. 1, 2; C.S., ss. 4992, 4994, 4995; 1951, c. 1130, s. 2; 1957, c. 794, ss. 7, 9, 10; 1971, c. 1231, s. 1; 1979, c. 871, s. 1; 1985, c. 364.)

**§ 83A-5. Board records; rosters; seal.**

(a) The Board shall maintain records of board meetings, of applications for individual or corporate registration and the action taken thereon, of the results of examinations, of all disciplinary proceedings, and of such other information as deemed necessary by the Board or required by the Administrative Procedure Act or other provisions of the General Statutes.

(b) A complete roster showing the name and last known address of all resident and nonresident architects and architectural firms holding current licenses from the Board shall be published by the Board at least once each year, and shall include each registrant's authorization or registration number. Copies of the roster shall be filed with the Secretary of State and the Attorney General, and other applicable State or local agencies, and upon request, may be distributed or sold to the public.

(c) The Board shall adopt a seal containing the name of the Board for use on its official records and reports. (1915, c. 270, ss. 1, 5; C.S., ss. 4989, 4991; 1957, c. 794, s. 5; 1979, c. 871, s. 1.)

**§ 83A-6. Board rules; bylaws; standards of professional conduct.**

(a) The Board shall have the power to adopt bylaws, rules, and standards of professional conduct to carry out the purposes of this Chapter, including, but not limited to:

- (1) The adoption of bylaws governing its meetings and proceedings;
- (2) The establishment of qualification requirements for admission to examinations, and for individual or corporate licensure as provided in G.S. 83A-7 and 83A-8;
- (3) The establishment of the types and contents of examinations, their conduct, and the minimum scores or other criteria for passing such examinations;
- (4) The adoption of mandatory standards of professional conduct concerning misrepresentations, conflicts of interest, incompetence, disability, violations of law, dishonest conduct, or other unprofessional

conduct for those persons or corporations regulated by this Chapter, which standards shall be enforceable under the disciplinary procedures of the Board;

- (5) The establishment or approval of requirements for renewal of licenses designed to promote the continued professional development and competence of licensees. Such requirements shall be designed solely to improve the professional knowledge and skills of a licensee directly related to the current and emerging bodies of knowledge and skills of the licensee's profession.

When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of architects as a condition of renewal of licenses.

(b) The Board shall not adopt any rule or regulation which prohibits advertising.

(c) The adoption, amendment or revocation of rules, regulations, and standards of professional conduct, and the publication and distribution of the same shall be subject to the provisions of the Administrative Procedure Act. (1979, c. 871, s. 1.)

#### **§ 83A-7. Qualifications and examination requirements.**

(a) Licensing by Examination. - Any individual who is at least 18 years of age and of good moral character may make written application for examination by completion of a form prescribed by the Board accompanied by the required application fee. Subject to qualification requirements of this section, the applicant shall be entitled to an examination to determine his qualifications for licensure.

- (1) The qualification requirements for registration as a duly licensed architect shall be:
  - a. Professional education and at least three years practical training and experience as specified by rules of the Board.
  - b. The successful completion of a licensure examination in architecture as specified by the rules of the Board.
- (2) The Board shall adopt rules to set requirements for professional education, practical training and experience, and examination which must be met by applicants for licensure and which may be based on the published guidelines of nationally recognized councils or agencies for the accreditation, examination, and licensing for the architectural profession.

(b) Licensing by Reciprocity. - Any individual holding a current license for the practice of architecture from another state or territory, and holding a certificate of qualification issued by the National Council of Architectural Registration Boards, may upon application and within the discretion of the Board be licensed without written examination. The Board may waive the requirement for National Council registration if the qualifications, examination and licensing requirements of the state in which the applicant is licensed are substantially equivalent to those of this State and the applicant otherwise meets the requirements of this Chapter. (1915, c. 270, s. 3; 1919, c. 336, s. 1; C.S., s. 4992; 1957, c. 794, s. 7; 1971, c. 1231, s. 1; 1979, c. 871, s. 1; 1983, c. 47; 1989, c. 62.)

#### **§ 83A-8. Qualification for corporate practice.**

(a) Any corporation desiring to practice architecture in this State shall file corporate application on forms provided by the Board, accompanied by the required application fee. To be eligible for a corporate certificate, the corporation must meet all requirements of the Professional Corporation Act.

(b) Architectural corporations of other states may be granted corporate certificates for practice in this State upon filing application with the Board and satisfying the Board that they meet the requirements of subsection (a) above. Such corporations shall designate the individual or individuals licensed to practice architecture in this State who shall be in responsible charge of all architectural work offered or performed by such corporation in this State. Such corporations shall notify the Board of changes in such designation.

(c) All corporations holding corporate certificates from the Board shall be subject to the applicable rules and regulations adopted by the Board, and to all the disciplinary powers applicable to individual licensees who are officers or employees of the corporation. Corporations may perform no acts or things forbidden to officers or employees as licensees. (1979, c. 871, s. 1.)

#### **§ 83A-9. Partnership practice.**

This Chapter neither prevents practice of architecture by a partnership nor requires partnership seals or certificates of practice provided that the members of the partnership are duly licensed to practice architecture, and, provided that the partnership files with the Board and keeps current a list of the partners, their license identifications, and the types of services offered by the partnership. (1979, c. 871, s. 1.)

**§ 83A-10. Professional seals.**

Every licensed architect shall have a seal of a design authorized by the Board, and shall imprint all drawings and sets of specifications prepared for use in this State with an impression of such seal. Licensed architectural corporations shall employ corporate professional seals, of a design approved by the Board, for use in identifying plans, specifications and other professional documents issued by the corporation, but use of such corporate seals shall be in addition to and not in substitution for the requirement that the individual seal of the author of such plans and professional documents be affixed. (1915, c. 270, s. 7; C.S., s. 4997; 1979, c. 871, s. 1.)

**§ 83A-11. Expirations and renewals.**

Certificates must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be mailed to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect, it shall issue a renewal of the certificate. Upon failure to renew within 30 days after the date set for expiration, the license shall be automatically revoked but such license may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications. (1919, c. 336, s. 2; C.S., s. 4995; 1951, c. 1130, s. 2; 1957, c. 794, s. 10; 1979, c. 871, s. 1.)

**§ 83A-12. Prohibited practice.**

The purpose of the Chapter is to safeguard life, health and property. It shall be unlawful for any individual, firm or corporation to practice or offer to practice architecture in this State as defined in this Chapter, or to use the title "Architect" or any form thereof, except as provided in Chapter 89A for Landscape Architects, or to display or use any words, letters, figures, titles, sign, card, advertisement, or other device to indicate that such individual or firm practices or offers to practice architecture as herein defined or is an architect or architectural firm qualified to perform architectural work, unless such person holds a current individual or corporate certificate of admission to practice architecture under the provisions of this Chapter. (1915, c. 270, s. 4; C.S., s. 4996; 1941, c. 369, ss. 1, 2; 1951, c. 1130, s. 3; 1957, c. 794, s. 11; 1965, c. 1100; 1969, c. 718, s. 21; 1973, c. 1414, s. 1; 1979, c. 871, s. 1.)

**§ 83A-13. Exemptions.**

(a) Nothing in this Chapter shall be construed to prevent the practice of general contracting under the provisions of Article 1 of Chapter 87, or the practice by any person who is qualified under law as a "registered professional engineer" of such architectural work as is incidental to engineering projects or utilities, or the practice of any other profession under the applicable licensure provisions of the General Statutes.

(b) Nothing in this Chapter shall be construed to prevent a duly licensed general contractor, professional engineer or architect, acting individually or in combination thereof, from participating in a "Design/Build" undertaking including the preparation of plans and/or specifications and entering individual or collective agreements with the owner in order to meet the owner's requirements for pre-determined costs and unified control in the design and construction of a project, and for the method of compensation for the design and construction services rendered; provided, however, that nothing herein shall be construed so as to allow the performance of any such services or any division thereof by one who is not duly licensed to perform such service or services in accordance with applicable licensure provisions of the General Statutes; provided further, that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and, provided further, nothing in this Chapter shall prevent the administration by any of the said licensees of construction contracts and related services or combination of services in connection with the construction of buildings.

(c) Nothing in this Chapter shall be construed to require an architectural license for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the building, buildings, or project involved is in one of the following categories:

- (1) A family residence, up to eight units attached with grade level exit, which is not a part of or physically connected with any other buildings or residential units;
- (2) A building upon any farm for the use of any farmer, unless the building is of such nature and intended for such use as to substantially involve the health or safety of the public;
- (3) An institutional or commercial building if it does not have a total value exceeding ninety thousand dollars (\$90,000);
- (4) An institutional or commercial building if the total building area does not exceed 2,500 square feet in gross floor area;

- (5) Alteration, remodeling, or renovation of an existing building that is exempt under this section, or alteration, remodeling, or renovation of an existing building or building site that does not alter or affect the structural system of the building; change the building's access or exit pattern; or change the live or dead load on the building's structural system. This subdivision shall not limit or change any other exemptions to this Chapter or to the practice of engineering under Chapter 89C of the General Statutes.
- (6) The preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions utilized to detail or illustrate a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements or exemptions of this Chapter.
- (d) Nothing in this Chapter shall be construed to prevent any individual from making plans or data for buildings for himself.
- (e) Plans and specifications prepared by persons or corporations under these exemptions shall bear the signature and address of such person or corporate officer. (1979, c. 871, s. 1; 1997-457, s. 1.)

**§ 83A-13.1. Architect who volunteers during an emergency or disaster; qualified immunity.**

(a) A professional architect who voluntarily, without compensation, provides structural, electrical, mechanical, or other architectural services at the scene of a declared disaster or emergency, declared under federal law or in accordance with the provisions of Article 1A of Chapter 166A of the General Statutes, at the request of a public official, law enforcement official, public safety official, or building inspection official, acting in an official capacity, shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by the professional architect's acts or omissions in the performance of the architectural services.

(b) The immunity provided in subsection (a) of this section applies only to an architectural service:

- (1) For any structure, building, piping, or other architectural system, either publicly or privately owned.
- (2) That occurs within 45 days after the declaration of the emergency or disaster, unless the 45-day immunity period is extended by an executive order issued by the Governor under the Governor's emergency executive powers.

(c) The immunity provided in subsection (a) of this section does not apply if it is determined that the personal injury, wrongful death, property damage, or other loss was caused by the gross negligence, wanton conduct, or intentional wrongdoing of the professional architect or arose out of the operation of a motor vehicle.

(d) As used in this section:

- (1) "Building inspection official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which the emergency or disaster is declared.
- (2) "Law enforcement official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which the emergency or disaster is declared.
- (3) "Public official" means any federal, State, or locally elected official with overall executive responsibility in the jurisdiction in which the emergency or disaster is declared.
- (4) "Public safety official" means any appointed or elected federal, State, or local official with overall executive responsibility to coordinate public safety in the jurisdiction in which the emergency or disaster is declared. (1995, c. 416, s. 2; 2012-12, s. 2(p).)

**§ 83A-14. Disciplinary action and procedure.**

Any person may file with the Board a charge of unprofessional conduct, negligence, incompetence, dishonest practice, or other misconduct or of any violation of this Chapter or of a Board rule adopted and published by the Board. Upon receipt of such charge, or upon its own initiative, the Board may give notice of an administrative hearing under the Administrative Procedure Act, or may dismiss the charge as unfounded or trivial, upon a statement of the reasons therefor which shall be mailed to the architect and the person who filed the charge by registered or certified mail. (1979, c. 871, s. 1.)

**§ 83A-15. Denial, suspension or revocation of license.**

(a) The Board shall have the power to suspend or revoke a license or certificate of registration, to deny a license or certificate of registration, or to reprimand or levy a civil penalty not in excess of five hundred dollars (\$500.00) per violation against any registrant who is found guilty of:

- (1) Dishonest conduct, including but not limited to:

- a. The commission of any fraud, deceit or misrepresentation in any professional relationship with clients or other persons; or with reference to obtaining or maintaining license, or with reference to qualifications, experience and past or present service; or
  - b. Using or permitting an individual professional seal to be used by or for others, or otherwise representing registrant as the author of drawings or specifications other than those prepared personally by or under direct supervision of registrant.
- (2) Incompetence, including but not limited to:
- a. Gross negligence, recklessness, or excessive errors or omissions or building failures in registrant's record of professional practice; or
  - b. Mental or physical disability or addiction to alcohol or drugs so as to endanger health, safety and interest of the public by impairing skill and care in professional services.
- (3) Unprofessional conduct, including but not limited to:
- a. Practicing or offering to practice architecture without a current license from this Board;
  - b. Knowingly aiding or abetting others to evade or violate the provisions of this Chapter, or the health and safety laws of this or other states;
  - c. Knowingly undertaking any activity or having any significant financial or other interest, or accepting any compensation or reward except from registrant's clients, any of which would reasonably appear to compromise registrant's professional judgment in serving the best interest of clients or public;
  - d. Willfully violating this Chapter or any rule or standard of conduct published by the Board, or pleading guilty or nolo contendere to a felony or any crime involving moral turpitude.

(b) Actions to recover civil penalties against any registrant may be commenced by the Board pursuant to Chapter 150B of the General Statutes. In determining the amount of any civil penalty, the Board shall consider the degree and extent of harm caused by the violation. The clear proceeds of any civil penalty collected hereunder shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1915, c. 270, s. 5; 1919, c. 336, s. 3; C.S., s. 4993; 1953, c. 1041, s. 1; 1957, c. 794, s. 8; 1973, c. 1331, s. 3; 1979, c. 871, s. 1; 1989, c. 81; 1998-215, s. 128.)

**§ 83A-16. Violations of Chapter; penalties.**

(a) Any individual or corporation not registered under this Chapter, who shall wrongfully use the title "Architect" or represent himself or herself to the public as an architect, or practice architecture as herein defined, or seek to avoid the provisions of this Chapter by the use of any other designation than "Architect": (i) shall be guilty of a Class 2 misdemeanor; and (ii) be subject to a civil penalty not to exceed five hundred dollars (\$500.00) per day of such violation. Each day of such unlawful practice shall constitute a distinct and separate violation. The clear proceeds of any civil penalty collected hereunder shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Actions and prosecutions under this section shall be commenced in the county in which the defendant resides, or has his principal place of business, or in the case of an out-of-state corporation, is conducting business.

(c) Actions to recover civil penalties shall be initiated by the Attorney General. (1915, c. 270, s. 4; C.S., s. 4996; 1941, c. 369, ss. 1, 2; 1951, c. 1130, s. 3; 1957, c. 794, s. 11; 1965, c. 1100; 1969, c. 718, s. 21; 1973, c. 1414, s. 1; 1979, c. 871, s. 1; 1993, c. 539, s. 595; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 129.)

**§ 83A-17. Power of Board to seek injunction.**

The Board may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto, and such courts are empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation. A single act of unauthorized or illegal practice shall be sufficient, if shown, to invoke the injunctive relief of this section or criminal penalties under G.S. 83A-16. (1979, c. 871, s. 1.)



## CHAPTER 2 - BOARD OF ARCHITECTURE

### SECTION .0100 - GENERAL PROVISIONS

#### **21 NCAC 02 .0101 AUTHORITY: NAME AND LOCATION OF BOARD**

The "North Carolina Board of Architecture," subsequently herein referred to as the "Board," is established and authorized by Chapter 83A of the General Statutes of North Carolina. Unless otherwise directed, all communications shall be addressed to the Board at 127 West Hargett Street, Suite 304, Raleigh, North Carolina 27601.

*History Note:* Authority G.S. 83A-2; 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. June 1, 1995; May 1, 1989; November 1, 1979.

#### **21 NCAC 02 .0102 ORGANIZATION OF BOARD AND OFFICERS**

In addition to the annual meeting as prescribed in G.S. 83A-2, other meetings of the Board may be called by the president or any three Board members. The officers of the Board shall be elected at the annual meeting for terms of one year and until a successor is elected. Vacancies in the officers' terms, occurring from death, resignation, disability or expiration of Board service, shall be filled by election at the next Board meeting following the vacancy.

*History Note:* Authority G.S. 83A-2; 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989; November 1, 1979.

#### **21 NCAC 02 .0106 SEAL OF BOARD**

The Board has adopted a seal, which is circular in shape and contains the words, "North Carolina Board of Architecture." The seal is maintained in the Board's office under the care, custody and charge of the Executive Director. The seal shall be used at the direction of the Board to authenticate any official action or report of the Board. The absence of the seal shall not automatically imply the lack of authentication of any document issued by the Board.

*History Note:* Authority G.S. 83-5; 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.

#### **21 NCAC 02 .0107 FORMS**

Any forms referred to or required by these rules are available on the Board web site at [www.ncbarch.org](http://www.ncbarch.org).

*History Note:* Authority G.S. 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. July 1, 2014; May 1, 1989; November 1, 1979.

#### **21 NCAC 02 .0108 FEES**

The fees required by the Board, are payable in advance and are set forth below:

Initial Registration Application by Exam	
Residents and Non-Residents	\$ 50.00
Firm Registration	\$ 75.00
Annual license renewal	
Individual	\$ 50.00
Firm	\$100.00
Late renewal Penalty	\$ 50.00
Reciprocal registration	\$150.00

Individual or Firm Reinstatement shall be the fee as described in G.S. 83A-11 and G.S. 55B-10.

All fees paid to the Board are non-refundable.

Other publications and services provided by the Board are available on the Board web site at [www.ncbarch.org](http://www.ncbarch.org).

*History Note: Authority G.S. 55B-10; 83A-4; 83A-11;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. July 1, 2014; December 1, 2010; June 1, 1995; December 1, 1992; May 1, 1991; May 1, 1989; July 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Amended Eff. November 1, 2017.*

**21 NCAC 02 .0109 DEFINITIONS**

In addition to the statutory definitions in G.S. 83A-1, as used in these Rules, the following terms shall have the following meanings:

- (1) "Delinquent" is the status of a license registration that has not been renewed in accordance with 21 NCAC 02 .0213(b) for individuals and 21 NCAC 02 .0214(d) for firms.
- (2) "Licensed" means holding a license to practice architecture in the State of North Carolina as defined by North Carolina General Statute Chapter 83A. "Registered" has the same meaning as licensed.
- (3) "Fictitious name" is any assumed name, style or designation other than the proper name of the entity using such name. The surname of a person, standing alone or coupled with words that describe the business, is not a fictitious business name. The inclusion of words that suggest additional owners, such as "Company," "& Company," "& Sons," "& Associates," makes the name an assumed or fictitious name. For partnerships, the last name of all partners must be listed or the fictitious name definition applies.
- (4) "Responsible control" has the meaning described in Rule .0206(d).
- (5) "Firm" or "Architectural Firm" means any Professional Corporation or Professional Limited Liability Company approved by the Board and engaged in the practice of architecture.
- (6) "Procurement" means purchasing or pricing of materials to construct a building or structure.
- (7) Direct Supervision as used in North Carolina General Statute 83A means responsible control.
- (8) "Continuing Competency" as used in North Carolina General Statute 83A-6(a)(5) means continuing education obtained post licensure that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety and welfare.
- (9) "Health, safety and welfare" (HSW) as used in North Carolina General Statute 83A-6 (a)(5) means technical and professional subjects that according to these rules safeguard the public and that are necessary for the proper evaluation, design, construction and utilization of buildings and the built environment.

*History Note: Authority G.S. 83A-6;  
Eff. November 1, 2010;  
Amended Eff. October 1, 2012.*

**SECTION .0200 - PRACTICE OF ARCHITECTURE**

**21 NCAC 02 .0201 ARCHITECT, FIRM OR PARTNERSHIP CONTACT INFORMATION AS ON FILE WITH THE BOARD**

(a) Every individual licensee shall keep the Board advised of his/her preferred current contact information, including physical mailing address, email and phone numbers, principle place of business and electronic mail address and the name of the firm or partnership where he/she is employed.

(b) Each firm or partnership shall within 30 days notify the Board of all changes in ownership, of association, contact information, electronic email or physical address. Upon the dissolution of a firm, the architect in responsible control of the firm at the time of dissolution shall within 30 days notify the Board concerning such dissolution, and of the succeeding status and addresses of the firm. This requirement is in addition to registration, listing and renewal requirements set out elsewhere in rules of this Chapter.

*History Note:* Authority G.S. 83A-5; 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. November 1, 2010; June 1, 1995.

#### **21 NCAC 02 .0202 APPLICABILITY OF BOARD RULES**

The Executive Director shall make available on the Board web site at [www.ncbarch.org](http://www.ncbarch.org) Chapter 83A of the North Carolina General Statutes and the rules of the Board adopted hereunder. Rules adopted and published by the Board under the provisions of Chapter 83A and Chapter 150B shall be binding upon every individual holding a license from the Board, and upon all professional corporations legally authorized to offer or to perform architectural services in this state. All licensees of the Board are charged with having knowledge of the existence of the Board rules and shall be deemed to be familiar with and have an understanding of their provisions. Each licensed person and entity shall affirm in their renewals that they have read the current architectural laws and rules.

*History Note:* Authority G.S. 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. July 1, 2014; June 1, 1995; May 1, 1989.

#### **21 NCAC 02 .0203 GENERAL OBLIGATIONS OF PRACTICE**

As a primary obligation and responsibility, the architect shall conduct his office and all aspects of his practice in such manner as to "safeguard life, health and property" as provided in G.S. 83A-12. In addition, an architect is also charged with the following personal and professional obligations of good practice:

- (1) The concern and purpose of the profession of architecture are the creation of a physical environment of use, order, and beauty through the resources of design, economics, technology, and management. The physical environment includes a spectrum of elements serving man, from the artifact and the building to the community and the region.
- (2) The profession of architecture calls for individuals of the highest integrity, judgment, business capacity and artistic and technical ability. An architect's honesty of purpose must be above suspicion. An architect acts as professional adviser to his client and his advice must be unprejudiced.

*History Note:* Authority G.S. 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989; November 1, 1979.

#### **21 NCAC 02 .0204 FORMS OF PRACTICE**

(a) The practice of architecture shall be carried out by one of the following types of entities:

- (1) sole practitioners;
- (2) professional limited liability companies that are established under the provisions of G.S. 57C;
- (3) limited liability partnerships that are established under the provisions of G.S. 59-84.2;
- (4) professional corporations that are established under the provisions of G.S. 55B; or
- (5) general partnerships.

Each limited liability partnership and each general partnership engaged in the practice of architecture in North Carolina shall keep a current list of all resident and non-resident partners of the partnership. One annual listing by a representative of the partnership shall satisfy the requirement of this Paragraph for all partners in the firm; however, each partner shall remain responsible for compliance with the rules. Changes in the information required by this Paragraph shall be filed with the Board office within 30 days after the change occurs.

(b) All individuals who practice through entities described in Subparagraphs (a)(1) through (a)(4) of this Rule shall be licensed to practice architecture.

*History Note: Authority G.S. 55B; 57C; 59-84.2; 83A-4; 83A-6; 83A-8;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. October 1, 2012; December 1, 2010; June 1, 1995.*

## **21 NCAC 02 .0205 NAME OF FIRM**

(a) A licensee shall not engage in the practice of architecture under a firm name which is misleading or deceptive in any way as to the legal form of the firm or the persons who are partners, officers, members, or shareholders in the firm. The Board shall approve all firm names to be used in this State. Examples of misleading or deceptive firm names include the following:

- (1) Use of "architects" when the number of architects in a firm does not warrant such use;
- (2) Use of the name of an employee unless that employee is a licensed partner, licensed officer, licensed member or licensed shareholder;
- (3) Use of the name of a deceased architect in order to benefit from his reputation, when that architect was not a former partner, officer, member or shareholder in the present firm;
- (4) Use of a name which is deceptively similar to that of existing firm name; and
- (5) Use of a fictitious name by a sole proprietor.

(b) Failure of the firm to register a fictitious name shall be prima facie evidence of the name being misleading or deceptive.

*History Note: Authority G.S. 55B-5; 83A-6; 83A-9; 83A-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. November 1, 2010; July 1, 2006; June 1, 1995, April 1, 1991; May 1, 1989.*

## **21 NCAC 02 .0206 REQUIREMENT FOR AND USE OF PROFESSIONAL SEAL**

(a) An architect shall seal his or her work whether or not the work is for an exempt project as defined in G.S. 83A-13. An architect shall not sign nor seal drawings, specifications, reports, or other professional work that were not prepared by the architect or under his or her responsible control. Documents shall be sealed as follows:

- (1) An architect may seal those portions of the professional work that:
  - (A) were prepared by or under the responsible control of persons who are registered architects in this State if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work; and
  - (B) are not required by law to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.
- (2) Individual Seal Design shall be as follows:
  - (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to original drawings or sets of specifications for use in this State. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting, or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all copies can be made.
  - (B) The standard design of the seal shall be two concentric circles in which "North Carolina" and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and "Registered Architect" placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.

- (C) The original, handwritten signature of the individual named on the seal shall be considered part of an individual seal and shall appear across the face of each original seal imprint along with the date of affixation.
  - (3) Firm Seal Design shall be as follows:
    - (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to drawings or sets of specifications. The design of the seal shall be two concentric circles in which the Architectural Firm's approved name and "North Carolina" shall be between the inner and outer circles and the firm's license registration number is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.
    - (B) For a Professional Corporation the words "Registered Architectural Corporation, North Carolina" shall be along the inside perimeter of the inner circle. For a Professional Limited Liability Company, the words "Registered Architectural Company" shall be along the inside perimeter of the inner circle.

A sole proprietorship is not required to have firm seal and shall seal all work with the individual seal as set forth in Subparagraph (2) of this Paragraph.
  - (4) The use of pre-printed documents bearing a pre-printed facsimile of the signed and dated seal is prohibited.
  - (5) Architects shall affix their seal on one original of all their drawings and sets of specifications prepared by them for use in this State as follows:
    - (A) on the cover sheet of each design and on each drawing prepared by the architect for the design;
    - (B) on the index page identifying each set of specifications; and
    - (C) on the index page of all other technical submissions. For the purposes of this Rule, "technical submissions" refer to plans, drawings, specifications, studies, addenda, and other technical reports prepared in the course of practicing architecture.
  - (6) Presentation documents, such as renderings used to communicate conceptual information, shall not be sealed or signed.
  - (7) Documents considered incomplete by the architect may be released for interim review without the architect's seal or signature affixed, but shall be dated, bear the architect's name, and be marked to indicate the documents are for interim review and not intended for bidding, procurement, permit, or construction purposes.
  - (8) Those sheets or pages prepared by licensed professional consultants, such as structural, mechanical or electrical engineers, retained by the architect shall bear the seal and registration number of the consultant responsible therefore and shall not be sealed by the architect.
  - (9) Original Signature. The use of signature reproductions such as rubber stamps, computer generated, or other facsimiles are not permitted in lieu of actual handwritten and hand dated signatures. However, a digital signature as defined in Paragraph (e) of this Rule may be used in lieu of a handwritten signature and handwritten date.
  - (10) The use of the prescribed seal is an individual act whereby the architect must personally sign over the imprint of the seal. By sealing documents for use in this State, an architect is representing that he or she is in responsible control over the content of such documents and has applied the required professional standard of care. The architect is responsible for security of the seal when not in use.
  - (11) Use of Firm Seal. The use of the firm seal does not replace the statutory requirement for an architect's individual seal as required in Paragraph (d). The firm seal must be affixed in addition to the individual seal on the cover sheet.
- (b) Prototypical Building design documents prepared by architects who are registered in this State or in their state of origin may be sealed by a succeeding licensed architect registered in North Carolina provided:
- (1) the seal of the original architect appears on the documents to authenticate authorship;
  - (2) the words "Prototypical Design Documents/Not for Construction" appear on each sheet of the documents by the original architect;
  - (3) the succeeding North Carolina architect identifies all modifications to the standard design documents;
  - (4) the succeeding North Carolina architect assumes responsibility for the adequacy of the design for the specific application in North Carolina and for the design conforming with applicable building codes, local conditions, site condition; and
  - (5) the succeeding North Carolina architect affixes his or her seal to the prototypical design documents with a statement as follows: "These documents have been examined by the undersigned. I have determined that

they comply with existing local North Carolina codes, and I assume responsibility for the adequacy of the design for the specific application in North Carolina."

(c) Post Construction record drawings prepared by an architect, but based upon representations of contractors, are not plans that are for "bidding, procurement, permit, or construction purposes" and therefore shall not be sealed by the architect as long as the documents bear the name of the architect and include language stating "these drawings are based in part upon the representations of others and are not for bidding, procurement, permit, or construction purposes".

(d) Responsible Control. No architect shall affix his or her seal and signature to contract documents developed by others not under the architect's responsible control. "Responsible control" means that amount of control over and professional knowledge of the content of technical submissions during their preparation as is exercised by an architect applying the required professional standard of care, including:

- (1) Dissemination of programmatic requirements;
- (2) Ongoing coordination and correlation of services with other aspects of the total design of the project;
- (3) Verification with consultant that owner's requirements are being met;
- (4) Authority over the services of those who assisted in the preparation of the documents;
- (5) Assumption of responsibility for the services;
- (6) Incorporation of services and technical submissions into design documents to be issued for permitting purposes; and
- (7) Incorporation and integration of information from manufacturers, suppliers, installers, the architect's consultants, owners, contractors, or other sources the architect trusts that is incidental to and intended to be incorporated into the architect's technical submissions if the architect has coordinated and reviewed such information

(e) The procedure for digitally signing and electronically sealing electronically transmitted plans, specifications, reports, or other documents prepared for use in this State in the course of practicing architecture is as follows:

- (1) Information stored in electronic files representing plans or specifications that must be sealed under the provisions of G.S. 83A-10 shall be signed, dated, and sealed by the architect in responsible control.
  - (A) A scanned image of an original signature shall not be used in lieu of a digital or electronic signature.
  - (B) The date that the electronic signature file was created or the digital signature was placed in to the document must appear on the document in the same manner as date is required to be applied when a licensee uses the manual sealing procedure set out in Subparagraph (a)(5) of this Rule.
- (2) An architect utilizing a digital signature to seal electronic documents for use in this State shall ensure that the digital signature is:
  - (A) Unique to the person using it;
  - (B) Capable of verification;
  - (C) Under the sole control of the person using it; and
  - (D) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.
- (3) Each electronically signed file shall have an authentication code defined as a "message digest," as set forth in the Federal Information Processing Standards (FIPS)180-4, "Secure Hash Standard," amended August 2015. The standard is incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at <http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.180-4.pdf>.
- (4) The architect is responsible for the security of the digital seal.

*History Note: Authority G.S. 83A-6; 83A-10; 83A-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. December 1, 2010; July 1, 2006; October 1, 1995; July 1, 1993; May 1, 1989; October 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Amended Eff. November 1, 2017.*

## **21 NCAC 02 .0208 DISHONEST CONDUCT**

- (a) Deception. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for registration renewal.
- (b) Contributions. An architect shall not pay or offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work. Gifts of nominal value (including, reasonable entertainment and hospitality) and securing salaried positions through employment agencies are permitted.
- (c) Registration of Others. An architect shall not assist the application for registration of a person known by the architect to be unqualified with respect to education, training, experience, or character.
- (d) Knowledge of Violation. An architect possessing knowledge of a violation of these Rules by another architect shall report such a violation to the Board.

*History Note: Authority G.S. 14-353; 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. November 1, 2010; July 1, 2006; December 1, 1995; June 1, 1995; October 1, 1989; May 1, 1989.*

## **21 NCAC 02 .0209 UNPROFESSIONAL CONDUCT**

In addition to the grounds stated in G.S. 83A-14 and G.S. 83A-15(3), the following acts or omissions may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or certificate of registration to practice architecture:

- (1) Compliance With Laws. It is unprofessional conduct for an architect, in the conduct of his or her professional practice, to knowingly violate any state or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.
- (2) Compliance With Foreign Registration. It is unprofessional conduct for an architect to knowingly violate the laws governing the practice of architecture or the rules promulgated by any other architectural licensing board in any United States jurisdiction. Discipline by a foreign architectural registration board that an architect has violated a law or rule governing the practice of architecture shall be deemed evidence of knowingly violating the law or rule.
- (3) Product Specification. It is unprofessional conduct for an architect to solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products.
- (4) Advertising. It is unprofessional conduct for an architect to engage in any false, deceptive, fraudulent, or misleading advertising.
- (5) False Statements. It is unprofessional conduct for an architect to knowingly make false statements about the professional work of; or to injure the reputation, prospects, practice, or employment position of others in the design and construction of the physical environment.
- (6) Evasion.
  - (a) It is unprofessional conduct for an architect, through employment by contractors (whether or not the contractors are licensed under G.S. 89), or by another individual or entity not holding an individual or firm registration from the Board, to enable the employer to offer or perform architectural services, except as provided in G.S. 83A-13. In design/build arrangements, the architect shall not be an employee of a person or firm not holding a registration to practice architecture in North Carolina.
  - (b) It is unprofessional conduct for an architect to furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A, G.S. 153A-357, G.S. 160A-412, or G.S. 160A-417.
  - (c) When building plans are begun or contracted for by persons not licensed and qualified, it is unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.
- (7) Branch Office. It is unprofessional conduct for an individual architect or firm to maintain or represent by sign, listing, or other manner that he or she maintains an architectural office or branch office in North Carolina unless such office has a registered resident architect in North Carolina whose principle place of

- business is in that office. This Item does not apply to on-site project offices during construction of a project.
- (8) **Misrepresentation Regarding Prior Experience.** An architect shall represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit. Misrepresentation shall be found if the following is not complied with:
    - (a) Each architect shall state his or her prior professional experience and the firm the architect is representing while presenting qualifications to all prospective clients. If an architect uses visual representations of prior projects or experience, all architects-of-record must be identified. "Architect-of-record" means persons or entities whose seals appear on plans, specifications, and contract documents.
    - (b) An architect who has been an employee of another architectural practice may not claim credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee, and identify the previous architectural firm. The architect shall also describe the nature and extent of his or her participation in the project.
    - (c) An architect who presents a project that has received awards or public recognition shall comply with the requirements in this Item with regard to project presentation to the public and prospective clients.
    - (d) Projects that remain unconstructed and are listed as credits in presentation items shall be listed as "unbuilt" or a similar designation, as determined by the architect.
  - (9) **Fee Bidding on Public Projects.** An architect shall not knowingly cooperate in a violation of any provisions of G.S. 143-64.31.
  - (10) An architect shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes responding to all inquiries from the Board or its representative.
  - (11) **Copyright Infringement.** It is unprofessional conduct for an architect to be found by a court to have infringed upon the copyrighted works of other architects or design professionals.
  - (12) It is unprofessional conduct for an individual to knowingly continue offering and rendering architectural services as set forth in G.S. 83A after his or her license expires, is placed on delinquent status, or revoked for failure to renew.

*History Note: Authority G.S. 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Amended Eff. February 24, 1976; Readopted September 29, 1977; Amended Eff. November 1, 2010; July 1, 2006; June 1, 1995; July 1, 1992; October 1, 1989; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. November 1, 2017.*

## **21 NCAC 02 .0210 INCOMPETENCE**

- (a) In practicing architecture, an architect shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.
- (b) In designing a project, an architect shall take into account all applicable state and municipal building laws and rules. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such laws and rules, once having obtained such advice, an architect shall not design a project in violation of such laws and rules.
- (c) An architect shall undertake to perform professional services only when he, together with those whom the architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.
- (d) No person shall be permitted to practice architecture if such person's professional competence is substantially impaired by physical or mental disabilities.
- (e) Architects preparing plans for building permits for projects not exempt under G.S. 83A- 13 shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements.



Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees.

*History Note: Authority G.S. 83A-6; 83A-14; 83A-15;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. July 1, 2006; June 1, 1995; May 1, 1989; November 1, 1979.*

## **21 NCAC 02 .0211 UNAUTHORIZED PRACTICE**

(a) Interpretations of certain of the exemptions found in G.S. 83A-13 are set forth in this Rule. Nothing in this Rule exempts any activity from the requirements contained in G.S. 89C:

- (1) Family Residence Exemption, as set forth in G.S. 83A-13(c)(1). Grade level exit means an exit which provides ingress and egress on a level which exits on grade. To be exempt, each unit in the building must exit on grade level.
  - (2) Farm Building Exemption is as set forth in G.S. 83A-13(c)(2).
  - (3) Ninety Thousand Dollar Exemption, as used in G.S. 83A-13(c)(3), means that the ninety thousand dollar (\$90,000) value is the probable completed construction cost and does not include the land value. Change orders may not be used to increase the cost and scope of the project from exempt to non-exempt status.
  - (4) 2,500 Gross Floor Area Exemption, as used in G.S. 83A-13(c)(4), means the total gross floor area, both heated and unheated, within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of interior walls, columns or other features, exclusive of areas open and unobstructed to the sky. Open eaves, overhangs, canopies, awnings, or similar open elements are not included.
  - (5) Alteration, Remodeling and Renovation Exemption, as set forth in G.S. 83A-13(c)(5):
    - (A) In order to qualify for the existing building exemption in G.S. 83A-13(c)(5), a certificate of occupancy for the building must have been issued. The value of the building, as used in G.S. 83A-13(c)(5), is the undepreciated tax value of an existing building as accepted by the U.S. Internal Revenue Service, or where not applicable, a value computed on the same basis as undepreciated tax value, or the property tax value, whichever value is higher, shall be used to determine existing building value.
    - (B) The seal of an architect, or professional engineer, as appropriate, is required if the alteration, remodeling or renovation alters or affects the structural system of a non-exempt building. Structural system, as used in G.S. 83A-13(c)(5), means the essential elements that form the support system of the building and, includes, but is not limited to, the fire protection and fire suppression systems of the building. Alter, as used in G.S. 83A-13(c)(5), means changes in the structural system of the building. Affect, as used in G.S. 83A-13(c)(5), means an imposition of live loads, dead loads or seismic mass which was not contemplated in the original design of the structural system.
  - (6) Shop Drawings, as used in G.S. 83A-13(c)(6), means those drawings prepared in-house by subcontractors and other specialists under the nonsupervisory control of the architect.
- (b) The exemption for preparing one's own plans or data, as set forth in G.S. 83A-13(d), does not exempt the preparation of specifications required to obtain a building permit in the construction of a building not exempt under G.S. 83A-13(c). Specifications means a description of the quality, size and strengths of the materials being used in a building.
- (c) Under G.S. 83A-13(e), in addition to the requirement to sign the plans, the name of the preparer must be legibly printed. If the design is prepared by a corporation, then the corporate officer assuming responsibility for the preparation must disclose his relationship to the corporation in addition to signing the sheets and disclosing the corporate address. An architect who prepares a design for an exempt project must seal and date that design, in compliance with G.S. 83A-10, even though the project may otherwise be classified as exempt under G.S. 83A-13.

*History Note: Authority G.S. 83A-1(7); 83A-6; 83A-10; 83A-12; 83A-13; 83A-17;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. December 1, 1991; May 1, 1989; November 1, 1979.*

## **21 NCAC 02 .0212 INDEPENDENT JUDGMENT AND DISCLOSURE**

(a) When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

(b) If, in the course of his work on a project, an architect becomes aware of a decision taken by his employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall:

- (1) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations;
- (2) refuse to consent to the decision;
- (3) in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project; and
- (4) in the case of termination in accordance with clause in Subparagraph (b)(3) of this Rule, the architect shall have no liability to his client or employer on account of such termination.

(c) If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

(d) An architect making public statements on architectural questions shall disclose when he is being compensated for making such statements.

*History Note: Authority G.S. 83A-6; 83A-16; 83A-17;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. June 1, 1995; May 1, 1989; November 1, 1979.*

## **21 NCAC 02 .0213 INDIVIDUAL LICENSES**

(a) **Renewal.** License registration must be renewed on or before the first day in July each year. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each individual licensee via electronic mail. It shall be the professional responsibility of the licensee to renew the license on or before the 30th day of July each year. Continued practice after such date shall constitute unlawful practice as set forth in G.S. 83A-12 and may be grounds for disciplinary action. The licensee shall complete the current license renewal documentation required by the Board. The licensee shall submit to the Board the completed license renewal documentation, along with the annual license renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying payment in the amount of the renewal fee is dishonored by the architect's drawee bank for any reason, the Board shall suspend the license until the renewal fees and check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of this Chapter, the Executive Director shall approve renewal of the license for the current license year. Renewal fees are non-refundable.

(b) **Late Renewal.** If the Board has not received the annual renewal fee and completed renewal documentation on or before the first day of July, each year the license shall expire and be placed on delinquent status. For the purpose of this Rule, "delinquent status" means an administrative revocation and is not considered discipline. The license may be renewed at any time within one year of being deemed delinquent, upon the return of the completed renewal documentation, the annual renewal fee, and the late renewal penalty and demonstration of compliance with Section .0900 of this Chapter.

(c) **Reinstatement.** After one year from the date of expiration, the Board shall revoke the license for failure to renew. Reinstatement shall occur pursuant to G.S. 83A-11 and Sections .0300 and .0900 of this Chapter.

(d) Any individual who is currently licensed by and in good standing with the Board who is serving in the armed forces of the United States shall not be subject to late fees, suspension or revocation for failure to renew licensure on or before the first day July each year, provided that the individual has been granted an extension of time to file a tax return as set forth in G.S. 105-249.2.

*History Note: Authority G.S. 83A-6; 83A-11; 93B-15(b);  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. December 1, 2010; July 1, 2006; July 1, 1999; May 1, 1989; November 1, 1979;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Amended Eff. November 1, 2017.*

## **21 NCAC 02 .0214 FIRM PRACTICE OF ARCHITECTURE**

(a) Registration. Prior to offering and rendering architectural services as set forth in G.S. 83A and 21 NCAC 02 .0204(a), all firms shall submit an application for firm registration and be granted registration by the Board. Application for firm registration to practice of architecture within the State of North Carolina shall be made upon forms provided on the Board web site at [www.ncbarch.org](http://www.ncbarch.org) and include the required application fee as set forth in Rule .0108 of this Chapter. Certificates for firm practice shall be issued only under the provisions of the Professional Corporation Act, G.S. 55B, except as provided in Subsection (b) of this Rule and G.S 57C.

(b) Architectural Corporations Under G.S. 55, the Business Corporation Act. Applications for certificate of registration as exempt from the Professional Corporation Act under the provisions of G.S. 55B-15 shall be made upon forms provided by the Board. Completed applications shall be accompanied by the corporate application fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15, the following conditions must exist:

- (1) The corporation must have been incorporated prior to June 5, 1969 as a business corporation;
- (2) Prior to and since June 5, 1969, the corporation must have been a *bona fide* architectural or architectural-engineering firm with services limited to the practice of architecture or architecture-engineering and ancillary services within the State of North Carolina; and
- (3) The corporation must have applied to be an exempt corporation before October 1, 1979.

(c) Renewal of Certificate. Firm registration shall be renewed on or before December 31st each year. If the Board has not received the annual renewal fee and completed application on or before December 31st each year, the firm license shall expire. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each registered firm. Renewal documentation shall be accompanied by the renewal fee. If the accompanying draft or check in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm registration until the renewal fees and returned check charges are paid. When the annual renewal has been complete according to the provision of G.S. 83A-11, the Executive Director shall approve renewal for the firm registration for the current renewal year. Upon completion of the firm annual renewal, the Board may randomly audit the compliance of firm registrations and require proof in the form of corporate records maintained pursuant to North Carolina General Statute 55B. Such records must be maintained for a period of seven years after the renewal is submitted. Renewal fees are non-refundable.

(d) Failure to Renew and Reinstatement. Within one year of the expiration, the firm license may be renewed at any time, upon the return of the completed renewal documents, the annual renewal fee, and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee the licensee shall seek reinstatement, as allowed by G.S. 83A-11. The Board may reinstate the firms' certificate of registration, as allowed by G.S. 83A-11.

(e) Seal. Each registered corporation shall adopt a seal pursuant to 21 NCAC 02 .0206(a)(3).

(f) Approval of Name. In addition to the requirements and limitations of G.S. 55 and 55B, the firm name used by an architectural corporation shall conform with Rule .0205 and be approved by the Board before being used. This Rule shall not prohibit the continued use of any firm name adopted in conformity with the General Statutes of North Carolina and Board Rules in effect at the date of such adoption.

*History Note: Authority G.S. 55B-5; 55B-10; 55B-15; 83A-6; 83A-8;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. July 1, 2014; December 1, 2010; July 1, 1993; May 1, 1989; November 1, 1979.*

## **21 NCAC 02 .0215 OUT OF STATE FIRMS**

(a) Incorporation in Other States. Architectural firms from other states may be granted firm certificates of registration for practice in this State upon receipt by the Board of a completed application, fees, the submission of a certified copy of their firm charter, or other corresponding documents, amended as may be necessary to insure compliance with all requirements of Chapter 55B, the Professional Corporation Act of the State of North Carolina, and the payment of the firm application fee. In addition to the other requirements as set out in G.S. 83A-8, foreign firms must, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. A certificate for filing for a certificate of authority must be obtained by the Board prior to submitting application to the Secretary of State.

(b) Designated Individuals. Foreign entities may be permitted to practice architecture within the State of North Carolina provided that it complies with G.S. Chapter 55B. If a foreign entity offers both architectural and engineering services, then it

must comply with requirements set forth in G.S. 89C. A foreign entity must have at least one officer, director and shareholder licensed as an individual in this state. Two-thirds of the issued and outstanding shares of the foreign corporations must be owned by licensed architects or engineers who are licensed to practice their profession in a jurisdiction of the United States. However, the firm must designate at least one architect who is licensed in the State of North Carolina to be in responsible charge for the firm practice of architecture within the State of North Carolina. Notwithstanding the requirements of this Rule, an individual architect who is licensed under G.S. Chapter 83A-7 may practice as an individual.

(c) Partnerships. An out of state architectural partnership may practice architecture, if every partner in the firm is licensed as an individual in this state under Rule .0213 and the partnership complies with Paragraph (f) this Rule .

(d) Limited Liability Companies. An out of state Limited Liability Company may practice architecture, if the Limited Liability Company complies with G.S. 57C and at least one member and one owner are licensed as in individuals under Rule .0213 and comply with Paragraph (a) of this Rule.

(e) Limited Liability Partnerships. An out of state Limited Liability Partnership may practice architecture, if the Limited Liability Partnership complies with G.S. 59, and at least one partner is licensed as an individual under Rule .0213.

(f) Failure to Renew and Reinstatement. If the Board has not received the annual firm renewal fee and completed application on or before December 31st each year the firm registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year, upon the return of the completed application, the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license shall be automatically revoked. The Board may reinstate the firm's certificate of registration, as allowed by G.S. 83A-11

*History Note:* Authority G.S. 55B-6; 83A-6; 83A-8;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. December 1, 2010; June 1, 1995; July 1, 1993; May 1, 1989; November 1, 1979.

#### **21 NCAC 02 .0217 ARCHITECT EMERITUS**

Resident architects who have been registered in this state who are retired from active practice or other related professional activities in any jurisdictions whatsoever, may apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. "Retired" means that the architect no longer practices architecture in that he/she no longer seals and certifies documents with his/her seal or otherwise offers to practice or practices architecture as defined in G.S. 83A-1 as amended. Nonresident architects who have been continuously certified by NCARB who are retired from active practice [or other related professional activities] in any jurisdictions whatsoever, and who are "emeritus", inactive or retired in every other jurisdiction in which they are licensed may also apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. Any such "architect emeritus" must renew that status on forms provided by the Board on or before the first day of July in each year. Any reference to an architect on "Emeritus Status" on any letter, title, sign, card or device shall list such architect as "Architect Emeritus".

*History Note:* Authority G.S. 83A-4; 83A-6; 83A-11; 83A-12;  
Eff. November 1, 1991;  
Amended Eff. July 1, 2006.

#### **21 NCAC 02 .0218 LIMITED LIABILITY COMPANIES**

Architects may practice in this state through duly authorized limited liability companies only as provided under G.S. 57C-2-01(c). Any limited liability company that offers to practice or practices architecture in this state must comply with the same requirements applicable to professional corporations under Rules .0201, .0202, .0204, .0205, .0214, and .0215 of this Chapter.

*History Note:* Authority G.S. 57C-2-01; 83A-6;  
Eff. June 1, 1995.

#### **21 NCAC 02 .0219 REGISTERED LIMITED LIABILITY PARTNERSHIPS**

*History Note:* Authority G.S. 83A-6; 59-84.2; 59-84.3;  
Eff. June 1, 1995;

*Repealed Eff. November 1, 2010.*

## **SECTION .0300 - EXAMINATION PROCEDURES**

### **21 NCAC 02 .0301 APPLICATION FOR REGISTRATION BY EXAM**

*History Note: Authority G.S. 83A-4; 83A-6; 83A-7;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. November 1, 2010; July 1, 1996; December 1, 1992; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Repealed Eff. November 1, 2017.*

### **21 NCAC 02 .0302 EXAMINATION**

(a) The Board became a Direct Registration State with the National Council of Architecture Registration Boards (NCARB) on July 25, 2016. Those individuals who wish to take the Architectural Registration Exam (ARE) must contact NCARB directly to obtain exam eligibility to take the ARE. Upon completion of all requirements set forth in the NCARB Architecture Experience Program (AXP), a candidate seeking license registration by exam in North Carolina must direct NCARB to transmit a completed AXP record to the North Carolina Board of Architecture.

(b) Upon passing all sections of the ARE NCARB, fulfillment of all NCARB AXP requirements, and completion of the National Architectural Accrediting Board (NAAB) accredited degree, NCARB, as directed by the candidate, will transmit a completed AXP file to the Board for review. Upon notification of receipt of a completed AXP file from the Board, an individual may submit the application for Candidate Record Review to determine compliance with G.S. 83A-7(a)(1)a. G.S. 83A-7(a)(1)a. shall be deemed satisfied through completion of the requirements set forth in Subparagraphs (1) through (5) of this Paragraph. The Board shall grant licensure by exam to those individuals who:

- (1) are of good moral character as defined in G.S. 83A-1(5);
- (2) are at least 18 years of age;
- (3) have completed a NAAB accredited professional degree in architecture or who have completed a NAAB accredited degree program that is identified as an NCARB endorsed Integrated Path To Architectural Licensure Degree Program;
- (4) have completed the NCARB AXP; and
- (5) submits the Application for Licensure by Exam and fee.

(c) Retention of credit for purposes of licensure by examination in North Carolina.

- (1) Passing scores received after July 1, 2006 on any part of the ARE remain valid for a period of time established by the exam provider, NCARB.
- (2) Scores received on any part of the ARE prior to July 1, 2006 are invalid.

(d) Practical training pursuant to G.S. 83A-7(a)(2) means practical experience and diversified training as defined by the Architectural Experience Program through the NCARB.

(e) During the application process, Board members, in order to augment the evidence submitted in an application may interview the applicant regarding qualifications required in Paragraph (b) of this Rule. The Board shall determine whether an interview is needed on a case-by-case basis, based upon information in the application, including any academic or professional discipline.

(f) To complete the ARE, an exam candidate shall receive a passing grade in each division of the ARE. Information regarding NCARB grading methods and procedures can be found on their web site at [www.ncarb.org](http://www.ncarb.org).

(g) A person currently employed under the responsible control of an architect, who holds a Professional Degree from a NAAB accredited program, and who maintains an active NCARB AXP record or has completed the NCARB AXP may use the title "Architectural Intern" or "Intern Architect" in conjunction with his or her current employment.

(h) The fees for examination, or parts thereof, are set and collected by the NCARB. Fee information is available on the NCARB web site [www.ncarb.org](http://www.ncarb.org).

(i) The standards of the National Council of Architecture Registration Boards and its components are hereby incorporated by reference including subsequent amendments and editions, and can be accessed at no charge at [www.ncarb.org](http://www.ncarb.org).

*History Note: Authority G.S. 83A-1; 83A-6; 83A-7; 83A-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;*

*Amended Eff. March 1, 2016; July 1, 2014; November 1, 2010; July 1, 2006; July 1, 2000; July 1, 1996; June 1, 1995; December 1, 1992; July 1, 1991;*  
*Amended Eff. November 1, 2017.*

### **21 NCAC 02 .0303 LICENSURE BY RECIPROCITY**

(a) An individual who holds a current license in good standing from a National Council of Architecture Registration Boards (NCARB) recognized jurisdiction and a Certified Council Certificate (also known as "Blue Cover") issued by NCARB may qualify for licensure by reciprocity. Upon receipt of a certified record from NCARB and the Board application for licensure by reciprocity and fee, the Board may issue a license to an applicant as provided in G.S. 83A-7(b). Revocation of the certificate by NCARB shall automatically suspend the architect's license to practice in North Carolina until such time as the certificate is reinstated by NCARB.

(b) The Board may interview with the applicant to satisfy the Board, or its designee that the applicant has had sufficient recent architectural practice experience to be able to competently practice architecture in this state.

*History Note: Authority G.S. 83A-6; 83A-7;*  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. July 1, 2014; November 1, 2010; July 1, 2006; July 1, 2000; October 1, 1995; May 1, 1989;*  
*October 1, 1984; September 1, 1982.*

## **SECTION .0400 - RULES: PETITIONS: HEARINGS**

### **21 NCAC 02 .0401 RULE-MAKING PETITIONS**

(a) A person may petition the Board to adopt a new rule or change or amend an existing rule by sending a rule-making petition to the Board at the Board's address set out in Rule .0101. The petition must be titled "Petition for Rule-making" and must include the following information:

- (1) the name and address of the person submitting the petition;
- (2) a citation to any rule for which a change or repeal is requested;
- (3) a draft of any proposed rule or amended rule;
- (4) an explanation of why the new rule, amendment, or repeal is requested and the effects of the new rule, amendment, or repeal on the Board's procedure or the persons regulated by the Board;
- (5) any other information the person submitting the petition considers relevant.

(b) The Board must decide whether to grant or deny a petition for rule-making within 120 days of receiving the petition. In making its decision, the Board will consider the information submitted with the petition and any other relevant information.

(c) When the Board denies a petition for rule-making, it must send written notice of the denial to the person who submitted the request. The notice must state the reason for the denial. When the Board grants a rule-making petition, it must initiate rule-making proceedings and send written notice of the proceedings to the person who submitted the request.

*History Note: Authority G.S. 150B-6;*  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. May 1, 1989.*

### **21 NCAC 02 .0402 NOTICE OF RULE-MAKING HEARINGS**

Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the Board shall give notice to all interested persons pursuant to the procedure established in Article 3A of Chapter 150B of the North Carolina General Statutes.

*History Note:* Authority G.S. 83A-6; 150B-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. June 1, 1995; May 1, 1989.

#### **21 NCAC 02 .0403 NOTICE MAILING LIST**

Any person desiring to be placed on the mailing list for Board rule-making notices may file such request in writing, furnishing his name and mailing address to the Board. The letter of request should state those subject areas within the authority of the Board for which the person wants notice. The Board may require reasonable postage and stationery cost to be paid by persons receiving such notice.

*History Note:* Authority G.S. 83A-6; 150B-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.

#### **21 NCAC 02 .0404 SUBMISSION OF DATA**

Any person desiring to present data, views or arguments on a proposed rule must comply with the statement of procedure as contained in the Notice of Hearing for the rule. Any person desiring to make an oral presentation to the Board prior to or at the hearing is encouraged to submit a written copy of the presentation to the Board prior to or at the hearing.

*History Note:* Authority G.S. 83A-6; 150B-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.

#### **21 NCAC 02 .0405 PRESIDING OFFICER: POWERS AND DUTIES**

The presiding officer at a rule-making hearing shall have complete control of the proceedings, including recognition of the speakers, time allotments for presentations, the right to question speakers, direction of the discussion and management of the hearing. The presiding officer, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

*History Note:* Authority G.S. 83A-6; 150B-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. June 1, 1995; May 1, 1989.

#### **21 NCAC 02 .0406 RECORD OF PROCEEDINGS**

A record of all rule-making proceedings will be maintained in the Board office for as long as the rule is in effect. This record shall contain: the original petition (if any), the notice, all written comments submitted, statements of explanation made to any interested party, and the minutes of the proceedings.

*History Note:* Authority G.S. 83A-6; 150B-12;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.

## SECTION .0500 - DECLARATORY RULINGS

### 21 NCAC 02 .0501 PROCEDURE FOR DECLARATORY RULING

(a) The Board shall decide whether to grant or deny a request to make a declaratory ruling on the validity of a rule or on the applicability of particular facts to a statute or to a rule or order of the Board within 60 days of receiving the petition. The Board shall deny a request for a declaratory ruling when the Board deems the petition undesirable. The Board will ordinarily refuse to grant a petition for a declaratory ruling when there has been a similar factual determination in a contested case or one is likely to be made in a pending contested case or investigation.

(b) The Board will presume that its current rules are valid unless this presumption is rebutted by persuasive evidence as offered in the petition for the declaratory ruling. When the Board determines that a rule is invalid, the Board shall initiate rule-making proceedings and send written notice of the proceeding to the person who submitted the request.

*History Note:* Authority G.S. 83A-6; 150B-17;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.

## SECTION .0600 - ADMINISTRATIVE HEARINGS: PROCEDURES

### 21 NCAC 02 .0601 PROFESSIONAL STANDARDS COMMITTEE

(a) The Professional Standards Committee ("Committee") shall be appointed by the President of the Board. Complaints regarding violations of the law or board rules shall be referred to the Committee.

(b) The Committee shall determine whether a complaint warrants further investigation or, if proven, constitutes probable cause and justifies contested case proceedings.

(c) If probable cause is found by the Committee, the staff and board counsel shall serve a Notice of Hearing for a contested case proceeding. However, a Consent Agreement resolving the complaint may be negotiated and recommended to the Board by the Committee, either before or after service of the Notice of Hearing.

(d) If probable cause is not found, the Committee may dismiss such a matter with or without prejudice.

*History Note:* Authority G.S. 83A-6; 83A-14; 83A-15; 150B-41;  
Eff. March 1, 1984;  
Amended Eff. November 1, 1991; May 1, 1989.

### 21 NCAC 02 .0603 REQUEST FOR HEARING

(a) Any time an individual believes he is a person aggrieved by the Board's administrative action, but has not received notice of a right to an administrative hearing, that individual may file a formal request for a hearing.

(b) Before an individual may file a request, that individual is encouraged to exhaust all reasonable efforts to resolve the issue informally with the Board.



(c) Subsequent to such informal action, if still dissatisfied, the individual shall submit a request to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING. The request must contain the following information:

- (1) name and address of the petitioner;
- (2) a concise statement of the action taken by the Board which is challenged;
- (3) a concise statement of the way in which the petitioner has been aggrieved; and
- (4) a clear and specific statement of request for a hearing.

(d) The request shall be acknowledged promptly and, if deemed appropriate by the Board in accordance with Rule .0604 of this Section, a hearing will be scheduled.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0602;  
Amended Eff. June 1, 1995; June 1, 1989.*

#### **21 NCAC 02 .0604 GRANTING OR DENYING HEARING REQUESTS**

(a) The Board shall grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6).

(b) The denial of request for a hearing shall be issued no later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons for the denial of the request.

(c) Approval of a request for a hearing will be signified by the issuing of a notice as required by General Statutes 150B-38(b) and explained in Rule .0605 of this Section.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0603;  
Amended Eff. May 1, 1989.*

#### **21 NCAC 02 .0605 NOTICE OF HEARING**

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) the name, position, address and telephone number of a person at the offices of the Board to contact for further information or discussion;
- (2) the date, time, and place for a pre-hearing conference, if any; and
- (3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) The Board shall give notice to all parties with a notice of hearing either personally or by certified mail or, if those methods are unavailable, in accordance with G.S. 1A-1, Rule 4(j1). In the event that notice is accomplished by certified mail, the delivery date on the return receipt shall be the date of the service of notice.

(c) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license or registration. Upon service of the order, the licensee or registrant to whom the order is directed shall immediately cease the practice of architecture in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

*History Note: Authority G.S. 83A-6; 150B-3(c); 150B-11; 150B-38;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0604;  
Amended Eff. May 1, 1989.*

**21 NCAC 02 .0606 WHO SHALL HEAR CONTESTED CASES**

All contested case hearings will be conducted by the full Board or by a panel consisting of at least a majority of the members of the Board. When required by Chapter 150B of the North Carolina Statutes, the Board shall apply to the Office of Administrative Hearings for the designation of an administrative law judge to hear the case pursuant to G.S. 150B-40(e).

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0605;  
Amended Eff. May 1, 1989.*

**21 NCAC 02 .0607 PETITION FOR INTERVENTION**

(a) A person desiring to intervene in a contested case must file a written petition with the Board. The request must bear the notation: PETITION TO INTERVENE IN THE CASE OF (name of case).

(b) The petition must include the following information:

- (1) the name and address of petitioner;
- (2) the business or occupation of petitioner, where relevant;
- (3) a full identification of the hearing in which petitioner is seeking to intervene;
- (4) the statutory or non-statutory grounds for intervention;
- (5) any claim or defense in respect of which intervention is sought;
- (6) a summary of the arguments or evidence petitioner seeks to present.

(c) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence, or whatever else is deemed necessary that are imposed on the intervenor.

(d) If the Board's decision is to deny intervention, the petitioner shall be notified promptly. Such notice shall be in writing, identifying the reasons for the denial, and shall be issued to the petitioner and all parties.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0606;  
Amended Eff. May 1, 1989.*

**21 NCAC 02 .0608 TYPES OF INTERVENTION**

(a) Intervention of Right. A petition to intervene of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that Rule and his petition is timely.

(b) Permissive Intervention. A petition to intervene permissively as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that Rule and the Board determines that:

- (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
- (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.

(c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0607;*

*Amended Eff. May 1, 1989.*

**21 NCAC 02 .0609            INFORMAL PROCEDURES**

(a) The Board and the party or parties may agree in advance to simplify the hearing by: decreasing the number of issues to be contested at the hearing; accepting the validity of certain proposed evidence; accepting the findings in some other case with relevance to the case at hand; or agreeing to such other matters as may expedite the hearing.

(b) Informal disposition may be made of any contested case or any issue therein by stipulation, agreement, or consent order at any time after Notice of Hearing or during the proceedings.

*History Note:    Authority G.S. 83A-6; 150B-11; 150B-38;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0608;  
Amended Eff. May 1, 1989.*

**21 NCAC 02 .0610            DISQUALIFICATION OF BOARD MEMBERS**

(a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render that member unable to conduct the hearing and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.

(b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to conduct the hearing and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit must bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (name of case).

(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.

(d) Timeliness of Affidavit. An affidavit of disqualification will be considered timely if filed ten days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule.

(e) Procedure for Determining Disqualification:

- (1) The Board will appoint a Board member to investigate the allegations of the affidavit.
- (2) The investigator will report to the Board the findings of the investigation.
- (3) The Board shall decide whether to disqualify the challenged individual.
- (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the other members of the Board.
- (5) A record of proceedings and the reasons for any decision reached will be maintained as part of the contested case record.
- (6) When a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
- (7) If disqualification of a Board member leaves less than a majority of the Board, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).
- (8) Where a petition for disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member will not participate in further deliberation or decision of the case.

*History Note:    Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;  
Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;  
Recodified from 21 NCAC 2 .0609;  
Amended Eff. May 1, 1989.*

## **SECTION .0700 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS**

### **21 NCAC 02 .0701 CONTINUANCES FAILURE TO APPEAR**

- (a) The presiding officer may grant continuances and adjournments only in compelling circumstances.
- (b) Should a party fail to appear at a hearing or fail to appear following the granting of a continuance adjournment, the hearing shall be conducted in the party's absence.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. November 1, 2010; May 1, 1989.*

### **21 NCAC 02 .0702 WITNESSES**

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded or transcribed. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

*History Note: Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.*

### **21 NCAC 02 .0703 SUBPOENAS**

- (a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be made in writing to the Board, shall identify any document sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas within five days of receipt of the request.
- (b) Subpoenas shall contain:
- (1) the caption of the case; the name and address of the person subpoenaed;
  - (2) the date, hour and location of the hearing in which the witness is commanded to appear;
  - (3) a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any;
  - (4) the identity of the party on whose application the subpoena was issued; the date of issue;
  - (5) the signature of one of the members of the Board or the Board's Secretary; and
  - (6) a "return of service." The "return of service" form, as filled out, shows the name and capacity of the person serving the subpoena, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.
- (c) The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out the "return of service" form for each copy and return one copy of the subpoena, with the attached "return of service" form completed, to the Board.
- (d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.
- (e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for

holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.

(f) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.

(g) The party who requested the subpoena, in such time as may be granted by the presiding officer, may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.

(h) After receipt of the objection and response thereto, if any, the presiding officer shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(i) After the close of such hearing, a majority of the Board members hearing the contested case shall rule on the challenge and issue a written decision. A copy of the decision shall be issued to all parties and made a part of the record.

*History Note:* Authority G.S. 83A-6; 150B-11; 150B-38; 150B-39;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. November 1, 2010; May 1, 1989.

#### **21 NCAC 02 .0704 FINAL AGENCY DECISION**

In all cases heard by the Board of Architecture, the Board will issue its decision within 60 days after its next regularly scheduled meeting following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right to judicial review.

*History Note:* Authority G.S. 83A-6; 150B-11; 150B-38; 150B-42;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.

#### **21 NCAC 02 .0705 PROPOSALS FOR DECISIONS**

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered within 45 days of the hearing pursuant to the Rules of the Office of Administrative Hearings. The parties may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be received within ten days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions to the procedure during the hearing, the handling of the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which exception is taken. The exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions must bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (name of case).

(c) Any party may present oral argument to the Board upon request. The requests must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.

(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision will be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions.

*History Note:* Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40;  
Eff. February 1, 1976;

*Readopted Eff. September 29, 1977;  
Amended Eff. May 1, 1989.*

## **SECTION .0900 - CONTINUING EDUCATION**

### **21 NCAC 02 .0901 SCOPE**

The rules in this Section set forth the continuing education requirements to be complied with by registrants.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
Eff. July 1, 1998;  
Amended Eff. July 1, 2006.*

### **21 NCAC 02 .0903 REQUIREMENTS**

(a) Every registrant shall obtain 12 contact hours for each calendar year. "Contact Hour" means a minimum of 50 minutes contact.

(b) The contact hours shall be obtained in structured educational activities intended to increase or update the architect's knowledge and competence in technical and professional architectural subjects directly related to safeguarding public health, safety and welfare("HSW"). "Structured educational activities" are activities in which at least 75 percent of an activity's content and instructional time is devoted to HSW subjects related to the practice of architecture, including courses of study or other activities under the areas identified as HSW by individuals or organizations, whether delivered by direct contact or distance learning methods.

(c) Registrants shall not carry forward any contact hours into the subsequent period.

(d) Registrants shall certify completion of the contact hours for the previous calendar year with annual registration renewal.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
Eff. July 1, 1998;  
Amended Eff. October 1, 2012.*

### **21 NCAC 02 .0904 DETERMINATION OF CREDIT**

(a) The Board has final authority with respect to approval of courses, programs, and contact hours.

(b) The Board may randomly audit the compliance of individual registrants and require proof in the form of records maintained pursuant to Rule .0905 of this Section of participation in courses or programs that conform with the content and contact hours calculation requirements contained in G.S. 83A-6(a) and these Rules.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
Eff. July 1, 1998;  
Amended Eff. October 1, 2012; July 1, 2006.*

### **21 NCAC 02 .0905 RECORD KEEPING**

(a) The registrant shall maintain records to support credits claimed. Records required include:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and contact hours earned; or
- (2) Attendance certificates or other evidence of participation; or
- (3) Records maintained by the American Institute of Architects Continuing Education System(AIA/CES).

(b) Records shall be retained by the registrant for a period of six years after the credit is claimed and provided to the Board upon request.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
Eff. July 1, 1998;  
Amended Eff. October 1, 2012.*

## **21 NCAC 02 .0906            EXCEPTIONS**

A registrant shall be exempt from the continuing education requirements for any of the following reasons:

- (1) New registrants by way of examination or reciprocity for the calendar year in which they become licensed;
- (2) A registrant serving on temporary active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days in a year or as provided by statute, whichever is greater;
- (3) Registrants experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a statement by the registrant, a statement from a physician, or medical records which show that the disability or illness prevented registrant's participation in a course which the registrant had enrolled, or prevented registrant's participation in the continuing education program for at least 90 consecutive days in a year; and
- (4) Registrants who receive emeritus status from the Board. In order to return to active practice, registrants shall complete continuing education requirements for each exempted year not to exceed two years.

*History Note:*     *Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;*  
                          *Eff. July 1, 1998;*  
                          *Amended Eff. October 1, 2012; July 1, 2006.*

## **21 NCAC 02 .0907            REINSTATEMENT**

A former registrant may only apply for reinstatement pursuant to G.S. 83A-11 if he has earned all delinquent contact hours within the 12 months preceding the application. However, if the total number of contact hours required to become current exceeds 24, then 24 shall be the maximum number required.

*History Note:*     *Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;*  
                          *Eff. July 1, 1998.*

## **21 NCAC 02 .0908            RECIPROcity**

The requirements of North Carolina shall be deemed satisfied by a non-resident registrant provided:

- (1) Registrant's resident jurisdiction has a comparable continuing education program; and
- (2) The same jurisdiction accepts the North Carolina continuing education requirements as satisfying their requirements.

*History Note:*     *Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;*  
                          *Eff. July 1, 1998.*

## **21 NCAC 02 .0909            FORMS**

All renewal applications shall require the completion of a continuing education certification provided by the Board documenting the contact hours claimed for the renewal period. The registrant shall supply sufficient detail to permit audit verification and shall certify and sign the continuing education certification with the renewal application and fee.

*History Note:*     *Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;*  
                          *Eff. July 1, 1998;*  
                          *Amended Eff. October 1, 2012.*

## **21 NCAC 02 .0910            NON-COMPLIANCE**

- (a) If any credits are disallowed by the Board, then the registrant shall have 60 calendar days after notification to substantiate the original claim or obtain other contact hours to meet the minimum requirements.
- (b) Licensees who fail to complete the continuing education requirement by the end of the previous calendar year shall have his or her license placed on probation and shall complete the outstanding continuing education by December 31<sup>st</sup> of the current calendar year. If the licensee fails to complete the outstanding continuing education requirements his or her license shall be suspended for 60 days or until such time as compliance is demonstrated if prior to 60 days. If the licensee fails to complete the outstanding continuing education within the 60 days suspension period his or her license shall be revoked.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; 83A-15;  
Eff. July 1, 1998;  
Amended Eff. October 1, 2012; July 1, 2006.



## **Chapter 55B.**

### **Professional Corporation Act.**

#### **§ 55B-1. Title.**

This Chapter may be cited as "The Professional Corporation Act." (1969, c. 718, s. 1.)

#### **§ 55B-2. Definitions.**

As used in this Chapter, the following words shall, unless the context requires otherwise, have the following meanings:

- (1) "Disqualified person" means a licensed person who for any reason becomes legally disqualified to render the same professional services which are or were being rendered by the professional corporation of which such person is an officer, director, shareholder or employee.
- (2) "Licensee" means any natural person who is duly licensed by the appropriate licensing board to render the same professional services which will be rendered by the professional corporation of which he is, or intends to become, an officer, director, shareholder or employee.
- (3) "Licensing board" means a board which is charged with the licensing and regulating of the profession or practice in this State in which the professional corporation is organized to engage.
- (4) The term "licensing board," as the same applies to attorneys at law, shall mean the Council of the North Carolina State Bar, and it shall include the North Carolina State Board of Law Examiners only to the extent that the North Carolina Board of Law Examiners is authorized to issue licenses for the practice of law under the supervision of the Council of the North Carolina State Bar.
- (5) "Professional corporation" means a corporation which is engaged in rendering the professional services as herein specified and defined, pursuant to a certificate of registration issued by the Licensing Board regulating the profession or practice, and which has as its shareholders only those individuals permitted by G.S. 55B-6 of this Chapter to be shareholders and which designates itself as may be required by this statute, and which is organized under the provisions of this Chapter and of Chapter 55, the North Carolina Business Corporation Act.
- (6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," Article 22, "Licensure Act for Speech and Language Pathologists and Audiologists," and Article 24, "Licensed Professional Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Licensed Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act". (1969, c. 718, s. 2; 1971, c. 196, s. 1; 1977, c. 53; c. 855, s. 1; 1979, c. 460; 1989 (Reg. Sess., 1990), c. 1024, s. 3; 1991, c. 205, s. 1; 1995, c. 382, s. 2; 1997-421, s. 2; 2000-115, s. 4; 2001-487, s. 40(d); 2003-117, s. 3; 2004-199, s. 19; 2004-203, s. 4.)

#### **§ 55B-3. North Carolina Business Corporation Act applicable; other applicable law.**

(a) Chapter 55 of the General Statutes, the North Carolina Business Corporation Act, applies to professional corporations, including their organization, and professional corporations shall enjoy the powers and privileges and shall be subject to the duties, restrictions and liabilities of other corporations, except insofar as the same may be limited or enlarged by this Chapter. If any provision of this Chapter conflicts with the provisions of Chapter 55 of the General Statutes, the North Carolina Business Corporation Act, the provisions of this Chapter shall prevail.

(b) A document required or permitted by this Chapter to be filed by the Secretary of State shall be filed under Chapter 55D of the General Statutes, Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations, Limited Liability Companies, Limited Partnerships, and Limited Partnerships. (1969, c. 718, s. 3; 1989 (Reg. Sess., 1990), c. 1024, s. 3; 2001-358, s. 11; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

#### **§ 55B-4. Formation of corporation.**

A professional corporation under this Chapter may be formed pursuant to the provisions of Chapter 55, the North Carolina Business Corporation Act, with the following limitations:

- (1) At least one incorporator shall be a "licensee" as hereinabove defined in G.S. 55B-2(2).
- (2) All of the shares of stock of the corporation shall be owned and held by a licensee, or licensees, as hereinabove defined in G.S. 55B-2(2), except as otherwise permitted in G.S. 55B-6.
- (3) At least one director and one officer shall be a "licensee" as hereinabove defined in G.S. 55B-2(2).
- (4) The articles of incorporation, in addition to the requirements of Chapter 55, shall designate the personal services to be rendered by the professional corporation and shall be accompanied by a certification by the appropriate licensing board that the ownership of the shares of stock is in compliance with the requirements of G.S. 55B-4(2) and G.S. 55B-6. (1969, c. 718, s. 4; 1977, c. 855, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 3; 1991, c. 205, s. 2; 1995, c. 351, s. 15.)

#### **§ 55B-5. Corporate name.**

The corporate name used by professional corporations under this Chapter, except as limited by the licensing acts of the respective professions, shall be governed by the provisions of Chapter 55D, provided that professional corporations may use the words "Professional Association, P.A.," "Professional Corporation," or "P.C." in lieu of the corporate designations specified in Chapter 55D, and provided further that licensing boards by regulations may make further corporate name requirements or limitations for the respective professions, but such regulations may not prohibit the continued use of any corporate name duly adopted in conformity with the General Statutes and with the pertinent licensing board regulations in effect at the date of such adoption. (1969, c. 718, s. 5; 1983, c. 22; 1989 (Reg. Sess., 1990), c. 1024, s. 3; 2001-358, s. 25; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

#### **§ 55B-6. Capital stock.**

(a) Except as provided in subsections (a1) and (b) of this section, a professional corporation may issue shares of its capital stock only to a licensee as defined in G.S. 55B-2, and a shareholder may voluntarily transfer shares of stock issued to the shareholder only to another licensee. No share or shares of any stock of a professional corporation shall be transferred upon the books of the corporation unless the corporation has received a certification of the appropriate licensing board that the transferee is a licensee. Provided, it shall be lawful in the case of professional corporations rendering services as defined in Chapters 83A, 89A, 89C, 89E, and 89F, for nonlicensed employees of the corporation to own not more than one-third of the total issued and outstanding shares of the corporation; and provided further, with respect to a professional corporation rendering services as defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, an employee retirement plan qualified under section 401 of the Internal Revenue Code of 1986, as amended (or any successor section), is deemed for purposes of this section to be a licensee if the trustee or trustees of the plan are licensees. Provided further, subject to any additional conditions that the appropriate licensing board may by rule or order impose in the public interest, it shall be lawful for individuals who are not licensees but who perform professional services on behalf of a professional corporation in another jurisdiction in which the corporation maintains an office, and who are duly licensed to perform professional services under the laws of the other jurisdiction, to be shareholders of the corporation so long as there is at least one shareholder who is a licensee as defined in G.S. 55B-2, and the corporation renders its professional services in the State only through those shareholders that are licensed in North Carolina. Upon the transfer of any shares of such corporation to a nonlicensed employee of such corporation, the corporation shall inform the appropriate licensing board of the name and address of the transferee and the number of shares issued to the nonprofessional transferee. The issuance or transfer of any share of stock in violation of this section is void. No shareholder of a professional corporation shall enter into a voting trust agreement or any other type of agreement vesting in another person the authority to exercise the voting power of any of the stock of a professional corporation.

(a1) Any person may own up to forty-nine percent of the stock of a professional corporation rendering services under Chapter 93 of the General Statutes as long as:

- (1) Licensees continue to own and control voting stock that represents at least fifty-one percent (51%) of the votes entitled to be cast in the election of directors of the professional corporation; and
- (2) All licensees who perform professional services on behalf of the corporation comply with Chapter 93 of the General Statutes and the rules adopted thereunder.

(b) A professional corporation formed pursuant to this Chapter may issue one hundred percent (100%) of its capital stock to another professional corporation in order for that corporation (the distributing corporation) to distribute in accordance with section 355 of the Internal Revenue Code of 1986, as amended (or any succeeding section), the stock of the controlled corporation to one or more shareholders of the distributing corporation authorized under this section to hold the shares. The distributing corporation shall distribute the stock of the controlled corporation within 30 days after the stock is issued to the

distributing corporation. A share of stock of the controlled corporation that is not transferred in accordance with this subsection within 30 days after the share was issued to the distributing corporation is void. (1969, c. 718, s. 6; 1977, c. 855, s. 1; 1989, c. 258; 1991, c. 179, s. 1; c. 205, s. 3; 1995, c. 351, s. 16; 1999-440, s. 1; 2000-115, s. 5.)

**§ 55B-7. Death or disqualification of a stockholder or employee.**

(a) If any officer, shareholder, agent or employee of a corporation organized under this Chapter who is a licensee becomes legally disqualified to render professional services within this State, he shall sever all employment with, and financial interest in, such corporation forthwith. A corporation's failure to comply with this provision shall constitute grounds for the forfeiture of its certificate of incorporation and its dissolution. When a corporation's failure to comply with this provision is brought to the attention of the Secretary of State, the Secretary of State shall forthwith certify that fact to the Attorney General for appropriate action to dissolve the corporation.

(b) A professional corporation shall report to the appropriate licensing board the death of any of its shareholders within 30 days thereafter. Within one year of the date of such death, all of the shares owned by such deceased shareholder shall be transferred to and acquired by the professional corporation or persons qualified to own such shares. In the absence of an agreement which determines the equitable value of the shares, then the price for such shares shall be the fair market value of the stock, but not less than the book value as of the end of the month immediately preceding the death or disqualification. Notwithstanding any other provisions of this Chapter, the shares of stock owned by such deceased shareholder may be owned and held by the person or persons who may be legally entitled to receive such shares for a period of one year after the death of such deceased shareholder, or in the case of the death of the owner of all the shares of such corporation, for such period of time as may be necessary to liquidate the corporation. (1969, c. 718, s. 7.)

**§ 55B-8. Rendition of professional services.**

A professional service corporation may render professional services only through its officers, employees and agents who are duly licensed to render such professional services; provided, however, this provision shall not be interpreted to include in the term "employee," as used herein, clerks, secretaries, bookkeepers, technicians and other assistants who are not considered by law to be rendering professional services to the public. (1969, c. 718, s. 8.)

**§ 55B-9. Professional relationship and liability.**

(a) Relationship. - Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit or alter the law in this State applicable to the professional relationship and liabilities between the licensee furnishing the professional services and the person receiving such professional service, or the standards of professional conduct applicable to the rendering therein of such services.

(b) Liability. - A shareholder, a director, or an officer of a professional corporation is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for the debts, obligations, and liabilities of, or chargeable to, the professional corporation that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another shareholder, director, or officer or by a representative of the professional corporation; provided, however, nothing in this Chapter shall affect the liability of a shareholder, director, or officer of a professional corporation for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services. (1969, c. 718, s. 9; 1993, c. 354, s. 2; 1999-362, s. 2; 2000-140, s. 101(f).)

**§ 55B-10. Registration with licensing board.**

No professional corporation shall open, operate, or maintain an establishment for any of the purposes set forth in this Chapter without first having obtained a certificate of registration from the licensing board or boards. Applications for such registration shall be made to the licensing board or boards in writing and shall contain the name and address of the corporation and such other information as may be required by the licensing board or boards. If the board finds that no disciplinary action is pending before the board against any of the licensed incorporators, officers, directors, shareholders or employees of such corporation, and if it appears that such corporation will be conducted in compliance with the law and the regulations of the board, the board shall issue, upon the payment of a registration fee, not to exceed fifty dollars (\$50.00), a certificate of registration which shall remain effective until January 1 following the date of such registration or until such other expiration or renewal date as may be established by law or by the regulations of the licensing board. (1969, c. 718, s. 10.)

**§ 55B-11. Renewal of certificate of registration.**

Upon written application of the holder, accompanied by a fee not to exceed the sum of twenty-five dollars (\$25.00), the licensing board shall renew the certificate of registration of a professional corporation as required by law or the regulations of the licensing board if the board finds that the corporation has complied with its regulations and the provisions of this section.

If the corporation does not apply for renewal of its certificate of registration within 30 days after the date of the expiration of such certificate, the certificate of registration shall be automatically suspended and may be reinstated within the calendar year upon the payment of the required renewal fee plus a penalty of ten dollars (\$10.00), if such corporation is then otherwise qualified and entitled to a renewal of its certificate of registration. (1969, c. 718, s. 11.)

**§ 55B-12. Application of regulations of licensing boards.**

A professional corporation shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee as herein defined. No professional corporation may do any act which its shareholders as licensees are prohibited from doing. (1969, c. 718, s. 12.)

**§ 55B-13. Suspension or revocation of certificate of registration.**

A licensing board may suspend or revoke a certificate of registration issued by it to a domestic or foreign professional corporation for any of the following reasons:

- (1) Upon the failure of such corporation to promptly remove or discharge an officer, director, shareholder or employee who becomes disqualified by reason of the revocation or suspension of his license to practice; or
- (2) Upon a finding by the licensing board that the professional corporation has failed to comply with the provisions of this Chapter or the regulations of the licensing board.

Upon the suspension or revocation of a certificate of registration issued to a professional corporation, such corporation shall cease forthwith to render professional services, and the Secretary of State shall be notified to the end that the corporation may be removed from active status and remain as such until reinstatement. (1969, c. 718, s. 13; 1995, c. 351, s. 17.)

**§ 55B-14. Types of professional services.**

(a) A professional corporation shall render only one specific type professional service, and such services as may be ancillary thereto, and shall not engage in any other business or profession; provided, however, such corporation may own real and personal property necessary or appropriate for rendering the type of professional services it was organized to render and it may invest in real estate, mortgages, stocks, bonds, and any other type of investments.

(b) Notwithstanding subsection (a) of this section, in the case of architectural, landscape architectural, engineering or land surveying, geological, and soil science services, as defined in Chapters 83A, 89A, 89C, 89E, and 89F respectively, one corporation may be authorized to provide such of these services where such corporation, and at least one corporate officer who is a stockholder thereof, is duly licensed by the licensing board of each such profession.

(c) A professional corporation may also be formed by and between or among:

- (1) A licensed psychologist and a physician practicing psychiatry to render psychotherapeutic and related services.
- (2) Any combination of a registered nurse, nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, certified nurse midwife, and certified nurse anesthetist, to render nursing and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
- (3) A physician and a physician assistant who is licensed, registered, or otherwise certified under Chapter 90 of the General Statutes to render medical and related services.
- (4) A physician, a licensed psychologist, a licensed clinical social worker, or each of them and a certified clinical specialist in psychiatric and mental health nursing, a licensed marriage and family therapist, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
- (5) A physician and any combination of a nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, or certified nurse midwife, registered or otherwise certified under Chapter 90 of the General Statutes, to render medical and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
- (6) A physician practicing anesthesiology and a certified nurse anesthetist to render anesthesia and related medical services that the respective stockholders are licensed, certified, or otherwise approved to provide.
- (7) A physician and an audiologist who is licensed under Article 22 of Chapter 90 of the General Statutes to render audiological and related medical services that the respective stockholders are licensed, certified, or otherwise approved to provide.

- (8) A physician practicing ophthalmology and an optometrist who is licensed under Article 6 of Chapter 90 of the General Statutes to render either or both of ophthalmic services and optometric and related services that the respective stockholders are licensed, certified, or otherwise approved to provide.
- (9) A physician practicing orthopedics and a podiatrist who is licensed under Article 12A of Chapter 90 of the General Statutes to render either or both of orthopedic services and podiatric and related services that the respective stockholders are licensed, certified, or otherwise approved to provide. (1969, c. 718, s. 14; 1971, c. 196, s. 2; 1973, c. 1446, s. 9; 1985, c. 251; 1991, c. 205, s. 4; 1995, c. 382, s. 1; 1997-421, s. 1; 1997-500, s. 1; 1999-136, s. 1; 2000-115, s. 6; 2001-487, s. 40(e); 2003-117, s. 4; 2006-144, s. 3.1; 2007-451, s. 2(a).)

**§ 55B-15. Applicability of Chapter.**

(a) This Chapter shall not apply to the following:

- (1) A corporation which prior to June 5, 1969, was permitted by law to render professional services or the corporate successor of that corporation by merger or otherwise by operation of law, provided there is no substantial change in the direct or indirect beneficial ownership of the shares of that corporation as the result of the merger or other transaction. For purposes of this subdivision, a change of twenty percent (20%) or less shall not be considered substantial.
- (2) A corporation authorized in this State to render primary services governed by Articles 1, 2, 4, or 5 of Chapter 87 of the General Statutes, if the corporation renders services as defined in Chapter 89C of the General Statutes, that are reasonably necessary and connected with the primary services performed by individuals regularly employed in the ordinary course of business by the corporation. The professional services may not be offered, performed, or rendered independently from the primary services rendered by the corporation. This subdivision does not restrict, limit, or modify the requirement that professional services must be provided by individuals regularly employed in the ordinary course of business by the corporation and duly licensed to render these professional services in this State. Nothing in this subdivision shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between licensees furnishing the professional service and the person receiving the professional service, or the standards of professional conduct applicable to the rendering of the professional service.

(b) A corporation or its successor exempt under subsection (a) of this section may be brought within the provisions of this Chapter by the filing of an amendment to its articles of incorporation declaring that its shareholders have elected to bring the corporation within the provisions of this Chapter and to make the same conform to all of the provisions of this Chapter. (1969, c. 718, s. 15; 1991, c. 645, s. 20; 1997-244, s. 1.)

**§ 55B-16. Foreign professional corporations.**

(a) A foreign professional corporation may apply for a certificate of authority to transact business in this State pursuant to the provisions of this Chapter and Chapter 55 of the General Statutes provided that:

- (1) The corporation obtains a certificate of registration from the appropriate licensing board or boards in this State;
- (2) With respect to each professional service practiced through the corporation in this State, at least one director and one officer shall be a licensee of the licensing board which regulates the profession in this State;
- (3) Each officer, employee, and agent of the corporation who will provide professional services to persons in this State shall be a licensee of the appropriate licensing board in this State;
- (4) The corporation shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the appropriate licensing board or boards in this State;
- (5) The corporation's activities in this State shall be limited as provided by G.S. 55B-14; and
- (6) The application for certificate of authority, in addition to the requirements of G.S. 55-15-03, shall set forth the personal services to be rendered by the foreign professional corporation and the individual or individuals who will satisfy the requirements of G.S. 55B-16(a)(2) and shall be accompanied by a certification by the appropriate licensing board that each individual is a "licensee" as defined in G.S. 55B-2(2) and by additional certifications as may be required to establish that the corporation is a "foreign professional corporation" as defined in G.S. 55B-16(b).

(b) For purposes of this section, "foreign professional corporation" means a corporation for profit that:

- (1) Is incorporated under a law other than the law of this State;

- (2) Is incorporated for the purpose of rendering professional services of the type that if rendered in this State would require the obtaining of a license from a licensing board pursuant to the statutory provisions referred to in G.S. 55B-2(6); and
- (3) Has as its shareholders only individuals who:
  - a. Qualify to hold shares of a corporation organized under this Chapter;
  - b. Are licensed to provide professional services as defined in G.S. 55B-2(6) in a state in which the corporation is incorporated or is authorized to transact business, provided that such professional services are the same as the professional service rendered by the corporation;
  - c. Are nonlicensed employees of a corporation rendering services of the type defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, provided that all such nonlicensed employees own no more than one-third of the total issued and outstanding shares of such corporation in the aggregate; or
  - d. With respect to a professional corporation rendering services under Chapter 93 of the General Statutes, are persons who own not more than forty-nine percent (49%) of the stock in the professional corporation as long as:
    - 1. Individuals who meet the requirements of sub-subdivision a. or b. of this subdivision own and control voting stock that represents at least fifty-one percent (51%) of the votes entitled to be cast in the election of directors of the professional corporation; and
    - 2. All licensees who perform professional services on behalf of the corporation in this State comply with Chapter 93 of the General Statutes and the rules adopted thereunder.

(b1) With respect to a professional corporation rendering services as defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, an employee retirement plan qualified under section 401 of the Internal Revenue Code of 1986, as amended (or any successor section), is deemed for purposes of this section to be an individual licensee if at least one trustee of the plan is a licensee and all other trustees are licensees or are individuals who are licensed under the laws of a state in which the corporation maintains an office to perform at least one of the professional services, as defined in Chapter 83A, 89A, 89C, or 89E of the General Statutes, rendered by the corporation.

(c) A foreign professional corporation with a valid certificate of authority has the same but no greater rights and privileges as, and is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic professional corporation of like character, except that the provisions of G.S. 55B-6 and G.S. 55B-7 do not apply. (1995, c. 351, s. 18; 1997-485, s. 23; 1999-440, s. 2.)

## Chapter 57D.

### North Carolina Limited Liability Company Act. (Relevant Sections)

#### Article 1.

#### General Provisions.

#### § 57D-2-02. Professional limited liability companies.

(a) Except as set forth in this subsection, a limited liability company may engage in rendering professional services only to the extent that it would be able to render those services were it a corporation, including, as applicable, complying with Chapter 55B of the General Statutes and the statutes referenced in the definition of "professional service" in G.S. 55B-2(6). Chapter 55B of the General Statutes and each statute referenced therein are deemed amended and to apply with such changes as are necessary to cause them to be applicable to limited liability companies in the same degree as for corporations but subject to any provisions contained herein pursuant to which limited liability companies, or their members, managers, and other company officials, are treated differently from corporations, or their shareholders, directors, and officers.

For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the statutes referenced therein to limited liability companies that engage in rendering professional services, unless the context specifically requires otherwise, the following rules of construction shall apply:

- (1) References to Chapter 55 of the General Statutes are treated as references to this Chapter, and references to a "corporation" or "foreign corporation" are treated as references to an LLC or foreign LLC, respectively.
- (2) References to "articles of incorporation" are treated as references to articles of organization.
- (3) The persons executing the articles of organization of an LLC are treated in the same manner as the incorporators of a professional corporation.
- (4) References to "directors" are treated as references to company officials having equal or greater authority in the management of a limited liability company as directors of a domestic corporation or foreign corporation, as the case may be.
- (5) References to "officers" are treated as references to company officials whose authority to manage the limited liability company is equal to or greater than that exercised by officers of a domestic corporation.
- (6) A professional limited liability company is not required to have more than one company official who would be treated as a director, officer, or both under Chapter 55B of the General Statutes.
- (7) A manager or other company official who has the authority of both a director and an officer if the limited liability were a company or a corporation is to be treated as holding both positions for purposes of applying Chapter 55B of the General Statutes to the limited liability company.
- (8) References to "shares" of a shareholder are treated as references to the ownership interest of an interest owner and, where the context so indicates or requires, a portion of an interest owner's ownership interest.
- (9) References to "shareholders" are treated as references to interest owners.
- (10) The name of a limited liability company that is to render a professional service and is subject to this section shall comply with Article 3 of Chapter 55D of the General Statutes and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC."

(b) Nothing in this Chapter abolishes, modifies, restricts, limits, or alters the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A member, manager, or other company official of a professional limited liability company is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the professional limited liability company that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another member, manager, or other company official, employee, agent, or other representative of the professional limited liability company, except nothing in this Chapter affects the liability of a member, manager, or other company official of a professional limited liability company for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services. (2013-157, s. 2.)

## Chapter 59.

### Partnership. (Relevant Sections)

#### § 59-45. Nature of partner's liability in ordinary partnerships and in registered limited liability partnerships.

(a) Except as provided by subsections (a1) and (b) of this section, all partners are jointly and severally liable for the acts and obligations of the partnership.

(a1) Except as provided in subsection (b) of this section, a partner in a registered limited liability partnership is not individually liable for debts and obligations of the partnership incurred while it is a registered limited liability partnership solely by reason of being a partner and does not become liable by participating, in whatever capacity, in the management or control of the business of the partnership.

(b) Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A partner in a registered limited liability partnership is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for the debts, obligations, and liabilities of, or chargeable to, the registered limited liability partnership that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another partner or by an employee, agent, or other representative of the partnership; provided, however, nothing in this Chapter shall affect the liability of a partner of a professional registered limited liability partnership for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services.

(c) Repealed by Session Laws 1999-362, s. 5.

(d) A partner in a registered limited liability partnership is not a proper party to proceedings by or against a limited liability partnership, except where the object of the proceeding is to enforce a partner's right against or liability to the limited liability partnership.

(e) The liability of partners of a registered limited liability partnership formed and existing under this Chapter shall at all times be determined solely and exclusively by this Chapter and the laws of this State.

(f) If a conflict arises between the laws of this State and the laws of any other jurisdiction with regard to the liability of a partner of a registered limited liability partnership formed and existing under this Chapter for the debts, obligations, and liabilities of the registered limited liability partnership, this Chapter and the laws of this State shall govern in determining the liability. (1941, c. 374, s. 15; 1953, c. 881; 1993, c. 354, s. 4; 1999-362, s. 5.)

#### Article 3B.

#### Registered Limited Liability Partnerships.

#### § 59-84.2. Registered limited liability partnerships.

(a) A partnership whose internal affairs are governed by the laws of this State, other than a limited partnership, may become a registered limited liability partnership by filing with the Secretary of State an application stating all of the following:

- (1) The name of the partnership.
- (2) The street address, and the mailing address if different from the street address, of its principal office and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, of the partnership's registered agent and registered office for service of process.
- (4) The county in this State in which the registered office is located.
- (5) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.
- (6) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.
- (7) The fiscal year end of the partnership.

(a1) The terms and conditions on which a partnership becomes a limited liability partnership must be approved in the manner provided in the partnership agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions shall be approved (i) in the case of a partnership having a partnership agreement that expressly considers obligations to contribute to the partnership, in the manner necessary to amend those provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.

(b) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.

(c) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.



- (d) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.
- (e) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.
- (f) Repealed by Session Laws 2001-387, s. 156(b), effective January 1, 2002.
- (f1) A partnership becomes a registered limited liability partnership when its application for registration becomes effective.
- (g) The status of a registered limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the application for registration.
- (h) A partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall set forth:
  - (1) The name of the partnership as reflected on the application for registration.
  - (2) The date of filing of the application for registration.
  - (3) The amendment to the application for registration.
- (i) Each registered limited liability partnership must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.
- (j) A partnership may cancel its registration by filing a certificate of cancellation with the Secretary of State. The certificate of cancellation shall set forth:
  - (1) The name of the partnership as reflected on the application for registration;
  - (2) The date of filing of the application for registration;
  - (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
  - (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
  - (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the partnership's registered agent to accept service of process, notice, or demand, and appoints the Secretary of State as agent to accept service on behalf of the partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the partnership was registered as a registered limited liability partnership. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.2. Upon receipt of process, notice, or demand in the manner provided in this section, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the partnership at the mailing address designated pursuant to this subsection.

(k) If a registered limited liability partnership is dissolved but its business is continued by some of its partners with or without others in a new partnership under the same name, then (i) the new partnership shall automatically succeed to the registration of the dissolved original partnership as a registered limited liability partnership and (ii) the dissolved original partnership shall be deemed to be registered as a registered limited liability partnership until the winding up of its affairs is completed. (1993, c. 354, s. 5; 1999-362, ss. 6, 7; 2000-140, ss. 53, 101(p); 2001-358, s. 51(a); 2001-387, ss. 118, 156, 173, 175(a); 2001-413, s. 6; 2002-58, s. 5.)

### **§ 59-84.3. Name of registered limited liability partnerships.**

A registered limited liability partnership's name must meet the requirements of G.S. 55D-20 and G.S. 55D-21. (1993, c. 354, s. 5; 1999-362, ss. 6, 8; 2001-358, s. 39; 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

## Chapter 143.

### State Departments, Institutions, and Commissions (Relevant Sections)

#### Article 3D.

#### Procurement of Architectural, Engineering, and Surveying Services.

##### § 143-64.31. Declaration of public policy.

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, construction management at risk services, design-build services, or public-private partnership construction services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Public entities that contract with a construction manager at risk, design-builder, or private developer under a public-private partnership under this section shall report to the Secretary of Administration the following information on all projects where a construction manager at risk, design-builder, or private developer under a public-private partnership is utilized:

- (1) A detailed explanation of the reason why the particular construction manager at risk, design-builder, or private developer was selected.
- (2) The terms of the contract with the construction manager at risk, design-builder, or private developer.
- (3) A list of all other firms considered but not selected as the construction manager at risk, design-builder, or private developer, and the amount of their proposed fees for services.
- (4) A report on the form of bidding utilized by the construction manager at risk, design-builder, or private developer on the project.
- (5) A detailed explanation of why the particular delivery method was used in lieu of the delivery methods identified in G.S. 143-128(a1) subdivisions (1) through (3) and the anticipated benefits to the public entity from using the particular delivery method.

(c) The Secretary of Administration shall adopt rules to implement the provisions of this subsection including the format and frequency of reporting.

(d) A public body letting a contract pursuant to any of the delivery methods identified in subdivisions (a1)(4), (a1)(6), (a1)(7), or (a1)(8) of G.S. 143-128 shall submit the report required by G.S. 143-64.31(b) no later than 12 months from the date the public body takes beneficial occupancy of the project. In the event that the public body fails to do so, the public body shall be prohibited from utilizing subdivisions (a1)(4), (a1)(6), (a1)(7), or (a1)(8) of G.S. 143-128 until such time as the public body completes the reporting requirement under this this section. Contracts entered into in violation of this prohibition shall not be deemed ultra vires and shall remain valid and fully enforceable. Any person, corporation or entity, however, which has submitted a bid or response to a request for proposals on any construction project previously advertised by the public body shall be entitled to obtain an injunction against the public body compelling the public body to comply with the reporting requirements of this section and from commencing or continuing a project let in violation of this subdivision until such time as the public body has complied with the reporting requirements of this section. The plaintiff in such cases shall not be entitled to recover monetary damages caused by the public body's failure to comply with this reporting requirements section, and neither the plaintiff nor the defendant shall be allowed to recover attorneys fees except as otherwise allowed by G.S. 1A-11 or G.S. 6-21.5. An action seeking the injunctive relief allowed by this subdivision must be filed within four years from the date that the owner took beneficial occupancy of the project for which the report remains due.

(e) For purposes of this Article, the definition in G.S. 143-128.1B and G.S. 143-128.1C shall apply. (1987, c. 102, s. 1; 1989, c. 230, s. 2; 2001-496, s. 1; 2006-210, s. 1; 2013-401, s. 1.)

**§ 143-64.32. Written exemption of particular contracts.**

Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000). (1987, c. 102, s. 2; 2013-401, s. 2.)

**§ 143-64.33. Advice in selecting consultants or negotiating consultant contracts.**

On architectural, engineering, or surveying contracts, the Department of Transportation or the Department of Administration may provide, upon request by a county, city, town or other subdivision of the State, advice in the process of selecting consultants or in negotiating consultant contracts with architects, engineers, or surveyors or any or all. (1987, c. 102, s. 3; 1989, c. 230, s. 3, c. 770, s. 44.)

**§ 143-64.34. Exemption of certain projects.**

State capital improvement projects under the jurisdiction of the State Building Commission, capital improvement projects of The University of North Carolina, and community college capital improvement projects, where the estimated expenditure of public money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of this Article. (1987, c. 102, s. 3.1; c. 830, s. 78(a); 1997-314, s. 1; 1997-412, s. 5; 2001-496, ss. 8(b), 8(c); 2005-300, s. 1; 2005-370, s. 1; 2007-322, s. 2; 2007-446, s. 7.)