GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

H HOUSE BILL 992

Short Title: Homebuilder Responsibility. (Public)

Sponsors: Representatives Earle; Decker, Saunders, and Wainwright.

Referred to: Finance.

April 5, 2001

A BILL TO BE ENTITLED
AN ACT TO STRENGTHEN THE LAWS F

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

The General Assembly of North Carolina enacts:

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

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

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

This section shall not apply to persons or firms or corporations furnishing or erecting industrial equipment, power <u>plan_plant_equipment</u>, radial brick chimneys, and monuments.

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

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

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

- "(a) The Board shall have the power to revoke, suspend, refuse to renew or restrict the certificate of license of any general contractor licensed hereunder who is found guilty of of:
- (1) any Any fraud or deceit in obtaining a license, or license.
- (2) gross Gross negligence, incompetency or misconduct in the practice of his profession, or profession.
- (3) <u>Violation of the State Building Code that creates a substantial risk of</u> personal injury or substantial property damage.

(4) Failure to take corrective action ordered by the Board. With the consent of the complainant, the Board may order a licensee to take corrective action in those cases involving residential construction where the Board finds, after notice and hearing as provided for in Chapter 150B of the General Statutes, a violation of subdivisions (2) or (3) above. Corrective action may not be ordered by the Board during the pendency of any civil action arising from the same facts or circumstances alleged in the notice of hearing. For purposes of this section, residential construction is defined as any construction activity

required to conform to the residential building code adopted by the

North Carolina State Building Code Council pursuant to G.S. 143-138.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Article 1B.

"Homebuilder Responsibility Act.

"§ 87-15.13. Title, purpose.

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

"§ 87-15.14. Definitions.

The following definitions apply to this Article:

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

- 1 (2) Building contractor. -- Defined in G.S. 87-10.
 - (3) <u>Licensed contractor. -- Any person required to obtain a license as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes.</u>
 - (4) Residential construction. -- Any construction activity required to conform to the residential building code adopted by the North Carolina State Building Code Council pursuant to G.S. 143-138.
 - (5) Residential contractor. -- Defined in G.S. 87-10.

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

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

"§ 87-15.16. Insurance.

- (a) Each contractor licensed as a building contractor or a residential contractor shall at all times maintain at least the minimum commercial general liability insurance coverage established by the Board pursuant to subsection (b) of this section.
- (b) The Board shall adopt rules establishing the amounts commercial general liability insurance that a licensee performing residential construction shall be required to carry. In no event shall the Board require insurance coverage in excess of five hundred thousand dollars (\$500,000) per occurrence. Verification of insurance coverage shall be made in a manner satisfactory to the Board.

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

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

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

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

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