NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS

nclbgc.org 5400 Creedmoor Rd. Raleigh, NC 27612 919-571-4183

North Carolina Licensing Board for General Contractors

2025 Mandatory Course: Required for 2026 Renewal

Student Guide

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Table of Contents

2025 Mandatory Course: Required for 2026 Renewal 1
Table of Contents **2**
Module 1: Welcome and Introduction **3**
Module 2: NC Laws and Regulations Updates **5**
Administrative Code or Rule Changes 5
Module 3: Licensee and Qualifier Requirements **15**
Module 4: Bonds **21**
Module 5: Conclusion **30**

Module 1: Welcome and Introduction

Class Introduction

- Fire exits
- Restroom locations
- Course timing and expected breaks
- Eating and drinking policy
- Cell phone use
- Expected participation in discussions

Welcome Video

Ryan Cody, Executive Director of the North Carolina Licensing Board for General Contractors

Introduction

Continuing Education is Important for General Contractors

Course Modules

This course will be divided into the following modules:

Module 1: Welcome & Introduction

Module 2: NC Laws & Regulations Updates

Module 3: Licensee & Qualifier Requirements

Module 4: NC Bonds

Break

Module 4: NC Bonds (continued)

Module 5: Conclusion

Course Objectives

Course Objectives

After completing today's mandatory course, you will:

- Understand how NCLBGC laws and rules impact the licensee's ability to maintain an active license.
- Understand the recent changes to laws and rules for which the licensee and qualifier must comply.

Questions and Notes

Use this student guide to write information in and keep it to refer to in the future. You will be writing in your guide as the course moves along.

The handout you are receiving is a helpful reference tool for this course and in the future.

Students who get the most from learning experiences participate, ask questions and work through the activities as it helps them understand and retain the information given. We encourage you do so in this course.

Notes:

Module 2: NC Laws and Regulations Updates

Background Information

In this section, we will discuss recent changes to the laws and rules that regulate North Carolina general contractor licensing.

Module Objectives

Upon completion of this module, students will be able to describe changes to North Carolina laws and rules applicable to general contracting for 2025.

We will begin by looking at changes to the statutes or laws. Then we will look at the changes to the Administrative Code or rules.

Administrative Code or Rule Changes

Overview

Updates to License Limitations

Overview

When a qualifier leaves a license a Drop Form needs to be completed (Located on the qualifier and license portal.)

Overview

All 8 CE hours must be completed by the same qualifier.

N.C. Gen. Stat. §87-10.2

§87-10.2. Continuing Education

(a) As a condition of license renewal, at least one qualifier or qualifying party of a licensee holding a building contractor, residential contractor, or unclassified contractor license classification shall complete, on an annual basis, eight hours of continuing education approved in accordance with this section. Where an entity holding a building contractor, residential contractor, or unclassified contractor license classification has multiple qualifiers or qualifying parties, at least one qualifier or qualifying party of the licensee shall complete this requirement for the license to remain valid.

(b) Of the eight hours of annual continuing education required by this section, two hours shall be a mandatory course approved by the Board and the remaining six hours shall be elective courses approved by the Board. Each qualifier or qualifying party shall complete the mandatory course each year. Each qualifier or qualifying party may accumulate and carry forward up to four hours of elective course credit to the next calendar year.

1. The Board shall evaluate and approve
2. The content of continuing education courses.
3. Accreditation of continuing education sponsors and programs.
4. Computation of credit.
5. General compliance procedures.
6. Providers and instructors of continuing education courses.

(c) All Board-approved providers of the mandatory course shall register Board-approved instructors affiliated with the provider to attend a training program established, approved, and administered by the Board to ensure the quality and consistency of mandatory course information. All prospective providers of elective courses shall submit course materials and instructor qualifications for Board evaluation, approval, and accreditation.

(d) Continuing education credit hours may only be given for courses that are taught live by an instructor approved by the Board. To receive credit, a qualifier or qualifying party shall attend and view the live teaching of the course and shall certify this requirement in the manner required by the Board. Only the period of live instruction shall apply to the satisfaction of the continuing education requirement established by this section. Continuing education providers shall certify the attendance of course attendees and shall transmit the qualifier or qualifying party's certification to the Board. For the purposes of this subsection, "live instruction" includes credit hours presented by video or by Internet transmission of a live or previously recorded and approved presentation by an approved instructor or instructors provided the presentation is either proctored by the approved provider or contains safeguards as approved by the Board that allow the approved provider to certify that the qualifier or qualifying party has viewed the presentation. The Board shall implement procedures to ensure that qualifiers and qualifying parties may satisfy all of the continuing education requirements of this section through approved Internet-based e-learning courses offered by approved providers by Internet transmission.

(e) False certification of attendance shall be grounds for the suspension or revocation of the course provider's privilege to provide courses in this State. The Board may take disciplinary action against any licensee, qualifier, or qualifying party for false certification of attendance by that licensee's qualifier or qualifying party at any continuing education course.

(f) The Board shall maintain and distribute to licensees and qualifiers, as appropriate, records of the required educational coursework successfully completed by each qualifier or qualifying party, including the subject matter and the number of hours of each course.

(g) Continuing education requirements shall begin on January 1 of any calendar year and shall be completed by November 30 of that calendar year. The Board shall establish a 90-day grace period following November 30 of each calendar year for any qualifier or qualifying party who has failed to complete the continuing education requirement. Failure of the qualifier or qualifying party of the entity holding a building contractor, residential contractor, or unclassified contractor license classification to satisfy the annual continuing education requirement by the expiration of the grace period shall result in the license of the entity being invalidated until such time that continuing education and all other licensing requirements have been met.

(h) Any licensee who chooses not to complete the annual continuing education as required by this section may annually request that the Board place the licensee's license in an inactive status and the license shall be- come invalid for that license year. However, in order for the license to be maintained as inactive, the licensee shall pay the same annual renewal fee paid by active licensees. Should the licensee desire to return to active status, the qualifier or qualifying party of the licensee shall satisfactorily complete the following continuing education requirements prior to seeking reinstatement:

1. If the licensee seeks reinstatement during the first two years after the license becomes inactive, the qualifier or qualifying party shall complete eight hours of continuing education, including the mandatory course offered during the year of reinstatement.

2. If the licensee seeks reinstatement more than two years after the license becomes inactive, the qualifier or qualifying party shall complete 16 hours of continuing education, including the mandatory course offered during the year of reinstatement.

(i) The Board shall establish nonrefundable fees for the purpose of administering the continuing education program. The Board may charge the provider of a proposed course a nonrefundable fee not to exceed twenty-five dollars ($25.00) per credit hour for the initial review of the course and a nonrefundable fee of twelve dollars and fifty cents ($12.50) per credit hour for the annual renewal of a course previously approved. The Board shall require an approved course provider to pay a fee, not to exceed five dollars ($5.00) per credit hour per qualifier or qualifying party, for each qualifier or qualifying party completing an approved continuing education course conducted by that provider.

(j) The Board may modify the continuing education requirements set forth in this Article in cases of certified illness or undue hardship as provided for in the rules of the Board.

(k) The Board may adopt rules to implement the requirements of this section.

Overview

CE records from 2021 can be dumped at the end of 2025.

21 NCAC 12B .0103

21 NCAC 12B .0103 Continuing Education Records; Audit

(a) A licensee shall maintain records of a qualifier's attendance at continuing education programs for which CE credit has been approved for four years following the processing date of the renewal application to which the CE credits were applied.

(b) Compliance with annual CE requirements shall be determined through a random audit process conducted by the Board. Licensees selected for auditing shall provide the Board with the following documentation of the CE activities claimed for the renewal period:

1. Attendance verification records; and
2. Information regarding course content, instructors, and sponsoring organization.

(c) Licensees selected for audit shall submit all requested information to the Board within 21 calendar days after the date the licensee was notified by the Board of the audit.

(d) Failure to maintain compliance with the Board's continuing education requirements shall result in the licensee's status being changed to invalid except as set forth in G.S. 87-10.2(h).

History Note:_____Authority G.S. 87-10.2(h); Temporary Adoption Eff. January 2, 2020.

Overview

Cost threshold requiring a North Carolina general contractors license increased from $30,000 to $40,000.

N.C. Gen. Stat. §87-1 & §87-14

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

(a) For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article,

the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is forty thousand dollars ($40,000) 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.

(b) This section shall not apply to the following:

1. Persons, firms, or corporations furnishing or erecting industrial equipment, power plant equipment, radial brick chimneys, and monuments.

2. Any person, firm, or corporation who constructs or alters a building on land owned by that person, firm, or corporation provided (i) the building is intended solely for occupancy by that person and his family, firm, or corporation after completion; and (ii) the person, firm, or corporation complies with

   G.S. 87-14. If the building is not occupied solely by the 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 the building solely for occupancy by that person and his family, firm, or corporation.

3. 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 the building is intended for use by that person after completion.

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

(a) Any person, firm, or corporation, upon making application to the building inspector or other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost is to be forty thousand dollars ($40,000) or more, shall, before being entitled to a permit, satisfy the following:

1. Furnish satisfactory proof to the inspector or authority that the applicant seeking the permit or another person contracting to superintend or manage the construction is licensed under this Article to carry out or superintend the construction or is exempt from licensure under G.S. 87-1(b). If an applicant claims an exemption from licensure pursuant to G.S.87-1(b)(2), the applicant for the building permit shall execute a verified affidavit attesting to the following:

(a) That the applicant is the owner of the property on which the building is being constructed and if the applicant is a firm or corporation, that the person submitting the application is an owner, officer, or member of the firm or corporation that owns the property.
(b) That the applicant will personally superintend and manage all aspects of the construction of the building and that the duty will not be delegated to any other person not licensed under this Article.
(c) That the applicant will be personally present for all inspections required by the North Carolina State Building Code, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.
(d) The building inspector or other authority shall transmit a copy of the affidavit to the Board, which shall verify that the applicant was validly entitled to claim the exemption under

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Code Compliance

It is your responsibility to know the current North Carolina building codes and statutes. Frequently check to make sure you are up to date.

When beginning any new project, double check the code requirements to ensure that all stipulations are being met before non-compliance occurs.

Code Enforcement

Failure to comply with the North Carolina building code requirements can result in severe penalties.

Such penalties may include revocation of license or charges of fraud, negligence, or incompetency.

N.C. Gen. Stat. §87-11

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

(a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or restrict a certificate of license or to issue a reprimand or take other disciplinary action if a general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining a license, or gross negligence, incompetency, or misconduct in the practice of his or her profession, or willful violation of any provision of this Article. The Board shall also have the power to revoke, suspend, or otherwise 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 co-partnership, corporation or any other organization or combination, if that 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.

(a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against any general contractor licensed under this Article. The charges shall be in writing and sworn to by the complainant and submitted to the Board. The 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.

(b) The Board shall adopt and publish guidelines, consistent with the provisions of this Article, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee. This record shall include, for each licensee, the date and nature of each complaint, investigatory action taken by the Board, any findings by the Board, and the disposition of the matter.

(d) The Board may reissue a license to any person, firm, or corporation whose license has been revoked: Provided, five or more members of the Board vote in favor of such reissuance for reasons the Board may deem sufficient.

(e) The Board shall immediately notify the Secretary of State of its findings in the case of the revocation of a license or of the reissuance of a revoked license.

(f) A certificate of license to replace any certificate lost, destroyed or mutilated may be issued subject to the rules and regulations of the Board.

(g) The Board shall be entitled to recover its reasonable administrative costs associated with the investigation and prosecution of a violation of this Article or rules or regulations of the Board up to a maximum of five thousand dollars ($5,000) for any licensee or qualifying party found to have committed any of the following:

1. Fraud or deceit in obtaining a license.
2. Gross negligence, incompetency, or misconduct in the practice of general contracting.
3. Willful violation of any provision of this Article.

Discussion Questions

1. Regarding Continuing Education (CE), the Board will evaluate and approve
   a. the content of continuing education courses, the accreditation of continuing education sponsors and programs, the locations of continuing education credit opportunities, and general compliance procedures.
   b. the content of continuing education courses, the accreditation of continuing education sponsors and programs, the computation of credit, general compliance procedures, and the providers and instructors of continuing education courses.
   c. only the accreditation of continuing education sponsors and programs, and the providers and instructors of continuing education courses.
   d. the content of continuing education courses, the accreditation of continuing education sponsors and programs, the computation of credit, general compliance procedures, and the students' attendance records.

2. Continuing education requirements must be completed between _____ and _____ of the given year. If the qualifier is unable to complete the CE by this deadline, a _____ day grace period is available.

3. If continuing education requirements are not met, but the renewal fees are paid, the license will be maintained as inactive.

   To reinstate the license within two years, the following must be completed.
   _____

   To reinstate the license more than two years later, the following must be completed.
   _____

4. Licensees must maintain records of a qualifier's attendance at continuing education for which credit has been approved for ____ years after the processing date of the renewal application to which those credits were applied.

5. To obtain a permit, any person, firm, or corporation must first do these three things:
   _____
   _____

Case Study #1

Now that you have explored the basic requirements for General Contractors (GC), let's look at a real-world violation and determine how such mistakes can be avoided. In the following example, a licensed GC attempted to short-

cut the permitting process on a commercial project and violated General Statutes by:

Not getting the required permits.

Not obeying the stop work order after it was discovered they did not get required permits.

Case #1 Script

During the renovation of a restaurant in the municipality's downtown district, a member of the inspection department stopped by to check on the project and make sure the proper permits were in place. Unfortunately, the GC had not pulled any permits. The inspector warned the GC that he would get in trouble if he didn't get his permits in order, but the inspector was going to give him a couple days to take care of things and check back in.

A couple days later the inspector returned.

The GC still had not applied for the permits.

The inspector had no choice but to issue a stop work order, which meant that any further work would be a violation of the stop work order in addition to the unpermitted work which had already been done.

The inspector notified the North Carolina Licensing Board for General Contractors (NCLBGC) of the situation. The Board then initiated an investigation which included a notice to the GC that the allegation of misconduct was being investigated.

To make matters worse, when the Licensing Board later sent their investigator to the site, the GC had continued renovations in spite of the active investigation and stop work order.

The Board concluded the investigation and determined that the GC was indeed in violation. Even though the GC eventually obtained the proper permits during the investigation, the damage had been done and the repeated violations could not be ignored. The GC agreed to settle the matter through a consent order to avoid a full hearing which could result in a more severe discipline. The Board suspended the license for one year and imposed a $3,000 cost recovery penalty.

It is never a good idea to perform work without required permits, but even when given a warning, this GC kept working. When issued a stop work order, the GC still kept working. Permits can seem expensive, and can take costly time to obtain, but they are there to protect the integrity of the project, ensure that construction is being done safely, and that the resulting product remains safe.

This GC chose to ignore those rules, had to pay cost recovery for the investigation, was unable to operate as a GC for a year, and now has a permanent record of these mistakes.

The GC had to learn the hard way and now that you've studied their mistake, you can avoid doing the same.

Case Study #1

Questions:

What was the mistake the GC made that started this whole problem?

How could that mistake have been avoided?

Even after failing to correct the first mistake, how could the GC have resolved the problem without it getting worse?

Notes:

Module 3: Licensee and Qualifier Requirements

Background Information

- Responsibilities of the licensee
- Processes to manage qualifiers

Module Objectives

Upon completion of this module, students will be able to:

- Identify the responsibilities of a licensee
- Understand the requirements to remain an active qualifier

Definition of Licensee and Qualifier

- The “licensee” is the person, firm, corporation, limited liability company or partnership named on the license certificate
- The “qualifier” is the individual with the qualifying examination credential (one who has passed the exam) which allows the license to exist for the person/firm/corporation/limited liability company/partnership
- A licensee and a qualifier can be the same person
- A qualifier may qualify up to 2 licenses

Licensee Responsibilities

It is important to remember that passing a qualifying examination does not grant a general contractors license, nor does it grant the authority to practice general contracting. What are important things for licensees to remember?

- Licensees must designate at least one qualifier who will or has completed the CE 8-hour requirement for the 2026 license renewal year
- Licensees must keep CE records for all license qualifiers for 4 years (the end of 2025 certificates from 2021 can be dumped)
- If a qualifying party leaves, the licensee must replace the qualifying party within ninety (90) days or the license becomes invalid
- Notify the Board in writing if a qualifier ceases to be connected with a license
- Must include the date on which the qualifier was last connected with the license
- Must submit this notice no later than 10 days from the separation date
- Licensees may not allow unlicensed persons, firms or corporations to use their general contractor's license even with the licensee's permission
- Although licensed general contractors may have an ownership interest in an unlicensed entity, unlicensed contractors may not use a general contractor's license for any reason
- Failure to comply with general contractor laws and regulations may result in a licensee and or qualifier being disciplined by the NCLBGC
- Sanctions may include restriction, suspension or revocation of the license and the qualifier's examination credentials
- Licenses must be renewed annually by December 31 for the following year, or the license expires effective January 1; it becomes invalid on March 1 of the following year
- If license is not renewed for 4 years, the license will be archived
- After four years, no renewal is allowed and all requirements for a new license must be completed

Threshold cost of a project that requires a licensed general contractor has been raised from $30,000 to $40,000

Requirements to Remaining a Qualifier

A qualifier's examination credentials shall archive if the qualifier does not serve as a qualifier for an active licensee for four consecutive years. After the exam credential archives an examination must be taken and passed to serve as a qualifier. A person can serve as a qualifier if:

- The qualifier is associated with a firm or corporation (W-2 Employee)
- They are a responsible managing employee or officer

When a Qualifier is no longer connected to the licensee

- If the qualifier ceases connection with the licensee, the license remains active for 90 days
- After 90 days, the license becomes invalid
- Licensees can return to valid status when the licensee submits to the NCLBGC a valid qualifier pursuant to all relevant statutes and rules promulgated by the NCLBGC
- During the 90-day period the licensee shall not bid on or undertake any additional contracts from the time the qualifier ceased to be connected with the licensee until a valid qualifier has been identified and the Board has recognized the license as valid.

License Limitations

Limited

- Project value of up to seven hundred and fifty thousand dollars ($750,000), excluding the cost of land and any ancillary costs to improve the land
- No limit on number of projects that don't exceed the limitation

Intermediate

- Project value of up to one million, five hundred thousand dollars ($1,500,000), excluding the cost of land and any ancillary costs to improve the land
- No limit on number of projects that don't exceed the limitation

Unlimited

- No restriction as to value of any single project

1. Select the true statement:

    a. The licensee and the qualifier cannot be the same person

    b. The licensee is the individual with the qualifying examination credential

    c. The qualifier may qualify up to 2 licenses

    d. The qualifier is the person named on the license certificate

2. Licensee responsibilities include:

3. If a qualifier is no longer connected to the licensee:

4. Correct the mistakes in the following statements.

    a. In a limited license, project values are limited to one million dollars.

    b. In an intermediate license, only six projects may be in process at once.

    c. In an unlimited license, project values must be at least one hundred thousand dollars.

Case Study #2

Now that you have explored the Licensee and Qualifier Requirements, let's look at real-world violations and determine how such mistakes can be avoided. In the following example, licensed GCs began a beach house building project and violated General Statutes by:

Unlicensed contracting (two unlicensed contractors in a joint venture)

Use of license (two licensees)

Case Study #2 Script

In July of 2023, a licensee applied for a building permit for a large single family beach house. There were concerns with the project cost listed on the permit application because the licensee held a limited license, and the contact information for the owner was the contact information for an unlicensed contractor.

The town staff forwarded emails between staff and the unlicensed contractor to NCLBGC. Board staff opened two complaints and subpoenaed documents, including the building contract, from the property owner.

The licensee who applied for the building permit was not a party to the contract, they instead contained an addendum agreement between the unlicensed contractor mentioned in the permit and a second unlicensed contractor, as well as a second licensee.

After obtaining information through the Board's subpoena, documents indicated that the contract was between the property owner, who was the unlicensed contractor listed in the permit, and a second unlicensed contractor (an unlicensed joint venture) at a contract cost of $1.8 million. There was also an addendum agreement which included both unlicensed contractors and an additional licensee.

This information confirmed that the licensee who was listed on the permit did not have a contract to build this home, yet had signed the building permit application as the contractor of record for the project. Based on the information obtained, two additional complaints were opened on the second contractor and the second licensee.

The NCLBGC staff opened a complaint against the unlicensed contractors and the licensees involved in the matter.

In accordance with Board rule 21 NCAC 12A .0207: A joint venture requires all members be properly licensed with at least one member obtaining proper limitation.

In accordance with General Statute 87-1: Contractors must be properly licensed in order to bid on a project with a value of $40,000 or more.

Both unlicensed contractors must obtain a license with the appropriate limitation prior to submitting bids or entering into contracts to perform construction projects with a value of $40,000.00 or more.

Licensees should never agree to allow unlicensed contractors to use their licenses and should not pull building permits for projects that they have not contracted to perform.

While the final investigation reports are pending the first unlicensed contractor is now licensed by the Board, while the other three parties have pending outcomes.

Case Study #2

Questions:

What mistakes did the licensee make before the project even got started?

What mistake did the property owner make?

What are some reasons that a GC would put themselves in this situation?

Notes:

Module 4: Bonds

Background Information

In this module we will watch an interview with construction lawyer Paul Davis. After each segment, we will review the main points of his explanations.

Module Objectives

Upon completion of this module, students will be able to:

Understand the basics of North Carolina Bonds

Identify and explain the differences between types of bonds

Purpose of a Bond

Provide various types of security for the project owner:

- Completed
- Claims
- Warranty

Insurance Policy

Bond is not the same as insurance policy:

- Secure performance from a party
- Insurance carrier pays the claim

Types of Bonds

- Bid bond
- Payment bond
- Performance bond
- Lien discharge bond
- Miscellaneous bonds

Parties to the Bond

- Surety
- Principal
- Obligee
- Claimant

Public Projects

Bid bond:

- Local projects, State projects, UNC projects
- $300,000 to $500,000
- Can be withdrawn within 72 hours

Bid Bond

Claim on the bond is made by public owner after the award of the contract.

(Can be negotiated from 5% in instances where the governing authority allows)

Payment Bond

For the protection of subcontractors and suppliers from the general contractor

- Local projects, State projects, UNC projects
- $300,000 to $500,000

Payment Bond – Form of Bond Required

The payment bond form varies by the public owner.

The trade associations, the American Arbitration Association, the AGC consensus docs, all have their own form of payment bond.

Payment Bond – Amount of Bond

The amount of the payment bond is 100% of the contract amount.

Payment Bond – Contractor's Project Statement

A document that the contractor gives to its subcontractors, and subcontractors are supposed to give it to other subcontractors

Identifies the specific project and the

surety on the project

Payment Bond – Claim on the Bond

- Breach of contract
- Scope of claims

Some contractors may not be proper claimants on a job

Sub contactor makes claim, surety investigates based on the contract

Payment Bond – Claim on the Bond – Primary Defenses to Claims

- Notice of Public Subcontract
- Timeliness of claim

Lawsuit subcontractor's deadline to file lawsuit on the bond is one year from the last day of its work or the date of contractor's "final settlement," whichever is later.

Performance Bond

Focuses on the public owner awarding the contract

- Local projects, State projects, UNC projects
- $300,000 to $500,000 (5% of the contract)

Performance Bond - Forms

Depends on the type of form the public owner wants

Some public owners, including the State Construction Office, will insist on their form of performance bond

Performance Bond - Amounts

100% of the contract amount

"Penal sum"

Performance Bond - Claims

Claimant Process:

- GC completes the work with surety assistance
- The surety can take over and hire a new GC
- The surety can tender its penal sum of the bond to owner and let owner complete the project
- Deny the claim if the owner is potentially at fault

Performance Bond – Claims – Defenses to Claims

Surety has the defenses of the GC as well as their own personal defenses

Surety may use this occurrence to mediate a solution

Private Projects

Owner is responsible for determining the liability of the contract bond in adherence to the current statutes

Owner and the contractor make the determination of the penal sum of each bond and the scope of each bond

Private Projects – Dispute Resolution

Private Projects

Parties are restricted on public projects on the timing of and what mechanism they can use to resolve their disputes

On private projects, the owner and the contractor determine how best they can resolve their dispute

1. What are the parties to a bond, and the roles of each?

_____:_____
_____:_____
_____:_____

2. Name the similarities and differences between Payment Bonds and Performance Bonds

Similarities	Differences

3. What are the owners' responsibilities in a private project?

_____
_____
_____

Case Study #3

Now that you have explored the NC Bond Laws, let's look at real-world violations and determine how such mistakes can be avoided. In the following example, a licensed GC began a residential building project and violated General Statutes by:

- Not paying the subcontractors.

- Not completing the project after being paid.
- Failing to notify the Board of bankruptcy within 30 days

Case Study #3 Script

In August of 2017, prospective homeowners contracted with a general contractor (GC) to build a single-family dwelling at a cost of $317,835.00 and paid the initial deposit of ten percent. Before pulling any permits, the GC hired a subcontractor who completed the footing/foundation for the residence in November and billed the GC for the work. In December, the homeowners paid the GC for the footing/foundation work. A building supply company then furnished materials including framing lumber, engineered wood products, and other building materials in January.

The GC then obtained a building permit for the residence.

The GC also did not have any inspections performed, and work was enclosed without the approval of the building inspector.

The single-family dwelling was in the framing stage, almost “dried in” with no inspections.

The homeowners made another large payment to the GC in February, after which the GC did not return to the jobsite. In March and April, it was discovered that neither the footing/foundation subcontractor, nor the building supply company had been paid for service or materials, and liens were filed by both parties.

In May, the homeowners released the licensed GC from the building permit, citing abandonment as the reason.

The qualifier for this license was qualifying another license in his individual name.

In June, the qualifier for the licensed GC filed chapter 7 bankruptcy.

Records on file with the NCLBGC show that the qualifier failed to notify the Board of this bankruptcy filing within 30 days of filing.

The investigation resulted in the revocation of the GC’s license and the revocations of the exam credentials of the qualifier.

Work on a project should never be performed until any needed permits have been obtained. Work should never be hidden from inspectors. All required inspections shall be obtained.

In this scenario, the GC put the guarantor in a position to be hurt financially.

Many projects require teamwork, and if legal procedure is not followed it affects other members of the team.

In accordance with Board Rule .0503 Section C: A Licensed General Contractor must notify the Board within 30 days of a bankruptcy. (Incident)

In accordance with General Statute 87-11:

A Licensed General Contractor must notify the Board of any liens and judgements against them before they renew their license.

Had the licensee followed protocol in this matter, his license and exam credentials would not have been revoked by the Board.

Case Study #3

Questions:

What mistake did the GC make at the very beginning of the project?

Is there anything the homeowners should have done differently?

Is there anything the guarantor should have done differently?

Notes:

Module 5: Conclusion

Conclusion

Remember that the overall goal of this course was to:

- Understand how NCLBGC laws and rules impact the licensee's ability to maintain an active license.
- Understand the recent changes to laws and rules with which the licensee and qualifier must comply.

Notes: