



NOTICE TO CURE COMMERCIAL CONSTRUCTION DEFECTS

The "South Carolina Notice and Opportunity to Cure Nonresidential Construction Defects Act" became law on June 9, 2006, and is included as Article 3 of the General and Mechanical Contracting Act, Title 40, Chapter 11.

Section 40-11-500 of the law states an action brought against a contractor or subcontractor arising out of the construction of a nonresidential, the claimant must, before filing the action, serve a written notice of claim on the contractor.

The notice must contain the following:

1. Statement that the claimant asserts a construction defect.
2. A description of the claim in reasonable detail sufficient to determine the general nature of the construction defect.
3. A description of any results of defect if known.

Section 40-11-540 states that:

- (A) The contractor or subcontractor has sixty days from service of the notice to inspect, offer to remedy, offer to settle with the claimant, or deny the claim regarding the defects. The claimant shall receive written notice of the contractor's or subcontractor's, as applicable, election under this section. The claimant shall allow inspection of the construction defect at an agreeable time to both parties, if requested under this section. The claimant shall give the contractor and any subcontractors reasonable access to the structure for inspection and if repairs have been agreed to by the parties, reasonable access to affect repairs. Failure to respond within sixty days is deemed a denial of the claim.
- (B) The claimant shall serve a response to the contractor's offer, if any, within ten days of receipt of the offer.
- (C) If the parties cannot settle the dispute pursuant to this article within ninety days after service of the initial notice of claim on the contractor, subcontractor, supplier or design professional, the claimant may proceed with a civil action or other remedy provided by contract or by law.
- (D) Any offers of settlement, repair, or remedy pursuant to this section, are not admissible as evidence in any proceeding.

Before filing a complaint against a general or mechanical contractor performing nonresidential with the South Carolina Contractors' Licensing Board, a claimant must- comply with the above new provisions of state law. If the contractor fails to respond to the new requirements concerning complaints pertaining to construction defects, attach a copy of your correspondence sent to the contractor, any correspondence from the contractor and mail the completed Contractors' Licensing Board complaint form to the board. The department will review your complaint, and advise you as to what action the board will take in regard your complaint. If you fail to submit documentation with the Contractor Complaint Form that you have made an attempt to resolve your concerns with the contractor for the work performed, the complaint form will be returned to you and will not be addressed by the board until you have met the above provision of the South Carolina Code of Laws, as amended.



NOTICE TO CURE RESIDENTIAL CONSTRUCTION DEFECTS

The "South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act" became law on July 2, 2003, and is included as Article 5 of the Residential Builders' License Law.

Section 40-59-810 of the law states an action brought against a contractor or subcontractor arising out of the construction of a dwelling, the claimant must, no later than ninety days before filing the action, serve a written notice of claim on the contractor.

The notice must contain the following:

4. Statement that the claimant asserts a construction defect.
5. A description of the claim in reasonable detail sufficient to determine the general nature of the construction defect.
6. A description of any results of defect if known.

Section 40-59-850 states that:

- (A) The contractor or subcontractor has thirty days from service of the notice to inspect, offer to remedy, offer to settle with the claimant, or deny the claim regarding the defects. The claimant shall receive written notice of the contractor's or subcontractor's, as applicable, election under this section. The claimant shall allow inspection of the construction defect at an agreeable time to both parties, if requested under this section. The claimant shall give the contractor and any subcontractors reasonable access to the dwelling for inspection and if repairs have been agreed to by the parties, reasonable access to affect repairs. Failure to respond within thirty days is deemed a denial of the claim.
- (B) The claimant shall serve a response to the contractor's offer, if any, within ten days of receipt of the offer.
- (C) If the parties cannot settle the dispute pursuant to this article, the claimant may proceed with a civil action or other remedy provided by contract or by law.
- (D) Any offers of settlement, repair, or remedy pursuant to this section, are not admissible in an action.

Before filing a complaint against a general or mechanical contractor performing residential construction with the South Carolina Contractors' Licensing Board, it is advisable to comply with the above new provisions of state law. If the contractor fails to respond to the new requirements concerning complaints pertaining to construction defects, attach a copy of your correspondence sent to the contractor, any correspondence from the contractor and mail the completed Contractors' Licensing Board complaint form to the board. The department will review your complaint, and advise you as to what action the board will take in regard your complaint. If you fail to submit documentation with the Contractor Complaint Form that you have made an attempt to resolve your concerns with the contractor for the work performed, the complaint form will be returned to you and will not be addressed by the board until you have met the above provision of the South Carolina Code of Laws, as amended.



**South Carolina Department of Labor, Licensing and Regulation
OFFICE OF INVESTIGATION AND ENFORCEMENT**

CONSUMER COMPLAINT INFORMATION, FILING AND PROCESS PROCEDURES

(PLEASE READ BEFORE COMPLETING THE COMPLAINT FORM)

Doc #110

I. Summary of the Role & Authority of the Contractors' Licensing Board Regarding Complaints:

As a licensing body, the Board has the authority to take disciplinary action against a licensee only by proving a violation of the licensing law governing the practice of general, mechanical, alarm, and fire sprinkler contractors. The Board cannot address contractual disputes, monetary disputes, cosmetic issues, or require a licensee to make repairs or monetary restitution. The Board does require a licensee to conform his/her practice to statutory standards of licensure, published building codes, and published construction standards and may discipline any licensee who fails to do so. Discipline may range from a reprimand, fine, or up to revocation of the license. Statutory standards are minimum requirements. Higher levels of performance can be enforced only by civil courts or binding arbitration when such arbitration is agreed to by the parties to a contract.

II. Filing Your Complaint:

"The South Carolina Notice and Opportunity to Cure Nonresidential Construction Defects Act" became law on June 9, 2006, and should be used for complaints on nonresidential (commercial) structures. If the complaint is against a licensee of this board and is on a residential structure, comply with the Residential Notice to Cure with time frames attached. Please follow the appropriate Notice instructions attached prior to completing the formal written complaint form. This requires written notice to the contractor, with time frames, before the formal complaint can be submitted.

After the Right to Cure is completed, complete the attached form, affix your notarized signature, and return to the Office of Investigation and Enforcement. You should attach copies of any support documents including your contract and building permit. The Board office will retain material submitted. The licensee becomes the Respondent in your complaint.

III. Processing Your Complaint:

- A. Your complaint will be reviewed. If it falls within the scope of statutory responsibility and authority of the Contractors' Licensing Board, it will be assigned a case number, and scheduled for investigation. If it does not fall within the Board's jurisdiction, you will be notified.
- B. If site inspection is required, the Complainant will receive a minimum ten (10) day notification setting date and time of the inspection.
- C. At the inspection, the Board's investigator will view and address those items listed in your complaint to determine if there are code violations, deviations from manufacturer's recommendation for installation or construction standards. If the inspection indicates possible violations, the case will be sent to the Board's Investigative Review Committee (IRC) for an evaluation of the evidence and disposition of the complaint, which could include closure, letter of caution, sanction of the license by Consent Agreement, citation or a contested case hearing before the full Board. If there are no observed code violations, construction standards deviations, or other facts to support a possible violation of the licensing statutes, the investigation and case will be closed. In any case, the complainant will be notified, in writing, of the results.

V. Your Role in the Complaint Process:

After you have filed your complaint and jurisdiction is established, the State will investigate in order to obtain facts, which support a charge of violation(s) and then must prove any allegation of violation(s) by the Respondent. Your role is to provide facts and be prepared to act as a witness if called by the State's attorney in a contested hearing before the full Contractors' Licensing Board.

**KEEP THE FRONT PAGE
OF THIS DOCUMENT
FOR THE COMPLAINT
PROCESS PROCEDURES**

**S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF INVESTIGATION AND ENFORCEMENT
POST OFFICE BOX 11329
COLUMBIA, SOUTH CAROLINA 29211-1329
TELEPHONE: (803) 896-4470
FAX: (803) 896-4656**



Office of Investigations and Enforcement South Carolina Contractors' Licensing Board

110 Centerview Drive, Columbia, S.C. 29210
P. O. Box 11329 Columbia, SC 29211-1329
Telephone (803) 896-4470 Fax: 803-896-4656

COMPLAINT FORM

For Consumer Complaints Against a:

- General Contractor Burglar/ Fire Alarm Contractor
 Mechanical Contractor Fire Sprinkler Contractor

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Contractors' Licensing Board. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

Complaint Against: (Licensee/Respondent)

Last First M.

Company Name of Licensee

Mailing Address

Last First Middle Name

City State Zip Code

Physical Mailing Address

() _____
Home Phone

City State Zip Code

Address of Property Involving Dispute

() _____
Day Time Phone

Property in City or County, List Name

License Number of Licensee / Respondent
(if applicable)

Facts Regarding This Complaint:

A. About your agreement:

- (1) Did you enter into: written contract verbal agreement
- (2) Is a copy of your contract attached to this complaint? Yes No
- (3) Total cost of construction: \$ _____

B. Work performed for: New Construction Repair/Remodeling Structure Inspection

- (1) Is a copy of your building permit attached (if applicable)? Yes No
- (2) If new construction, has Certificate of Occupancy been issued? Yes No
- (3) What is the approximate age of the structure? _____
- (4) If repairs or remodeling, date work started _____
date work completed _____

C. Have you hired an attorney to assist you in this matter? Yes No

If answer is yes, please provide name and address.

Name of Attorney

Name of Firm

Mail Address

City State Zip Code

Phone: () _____

D. Explain your complaint specifically. List items needing correction or items of concern. Describe events in the order in which they occurred. Attach additional sheets if necessary.
