

# North Carolina Licensing for General Contractors: Licensure of Joint Ventures

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**Joint ventures are a common method of undertaking construction projects in North Carolina.**

Through a joint venture, two companies can pool their resources and expertise to complete a project. Joint ventures are unincorporated associations. The parties to a joint venture should be cognizant of North Carolina's licensing requirements to avoid the regulatory and legal

pitfalls that accompany practicing general contracting in the State of North Carolina without a valid license.

In North Carolina, any firm or corporation that undertakes to bid upon or to construct a building or other improvement where the cost of the undertaking is \$30,000.00 or more must be properly licensed by the North Carolina Licensing Board for General Contractors.

Questions can arise as to how to properly license a joint venture or which parties to a joint venture must be licensed. For instance, are the license requirements met if an out-of-state contractor (which is not licensed in North Carolina) enters into a joint venture with a local, licensed general contractor? What if an unlicensed developer wants to enter into a joint venture with a licensed general contractor for the purpose of constructing a project?

When analyzing licensure requirements, the critical question is: who is entering into the construction contract with the project owner? The entity that signs the construction contract with the owner must be validly licensed, whether it is a corporation, a limited liability company, a partnership, or a joint venture.

There is no statute in North Carolina that recognizes a joint venture as a distinct business entity like there are for corporations and limited liability companies. Joint ventures are akin to general partnerships and that is how they are typically treated from a legal perspective.

The default rule for the licensing of partnerships is that the partnership itself must hold its own license in the partnership's name. The license must be in the name of the partnership. Thus, if parties A and B form partnership AB Construction, the license must be in the name of AB Construction. A partnership is not considered to be validly licensed just because one or more of the partners holds its own general contractors license.

There is an exemption to that general rule for joint ventures in North Carolina. Consistent with the general

rule, a joint venture may still practice general contracting in North Carolina if it holds the appropriate license in its own name. However, a joint venture may also practice general contracting in North Carolina without obtaining its own license if every principal or member of the joint venture is licensed to practice general contracting in North Carolina with the appropriate classification and at least one principal has the appropriate limitation. The only qualification to that is if one of the joint venturers is a limited liability company. If that is the case, all members and managers of that limited liability company have to be licensed to practice general contracting in North Carolina with the appropriate classification and limitation.

It is important to comply with these licensing requirements at the inception of a project before any contract for the work is entered into. In addition to regulatory action that the licensing board may take, including reprimands or license suspensions, an unlicensed general contractor cannot enforce its contract with the project owner. That means it cannot legally enforce its contract to collect amounts that may be owed. This is a defect that cannot be cured by subsequently complying with the licensing requirements after the contract is signed.

Ward and Smith has a dedicated Professional Licensing Practice Group that can assist contractors in navigating the complexities of the laws and regulations relating to general contractors and defend investigations by the North Carolina Licensing Board for General Contractors.

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