

## **21 NCAC 23 .0102 SURETY BONDS AND LEGAL STATUS**

(a) For purposes of this Section a corporate entity is a person as defined in G.S. 89G-1(5) who engages in irrigation contracting, other than natural persons. A natural person licensed by the Board shall post a surety bond or irrevocable letter of credit for his or her individual license listing his or her name and the name of any corporation, partnership, limited liability corporation, limited liability partnership, or assumed or registered business name under which he or she does business.

(b) If any licensed individual employed by a corporate entity does irrigation contracting on his or her own behalf, outside the scope of his or her employment, agency, or other relationship with the corporate entity named on the surety bond or irrevocable letter of credit submitted to the Board, that individual licensee must obtain and post a separate surety bond or irrevocable letter of credit with the Board, naming himself or herself as principal.

(c) When a licensed individual terminates his or her relationship (e.g. employment, partnership, or agency) with a corporate entity that lists the individual on a surety bond or irrevocable letter of credit, the licensed individual shall purchase and post his or her own surety bond or irrevocable letter of credit with the Board. The licensed individual shall report the termination to the Board within five business days of its effective date.

(d) If a licensed individual uses a corporate entity to engage in irrigation contracting and is required to file any corporate documents with the North Carolina Secretary of State pursuant to North Carolina law or rules, the individual licensee who qualifies said corporate entity to engage in irrigation contracting shall notify the Board of having filed corporate documents by providing the Board with copies of the same within five business days of the filing date. In lieu of submitting paper copies of such filings, the individual licensee may submit an e-mail to the Board's administrator including a link to the filed corporate documents on the North Carolina Secretary of State's website within 24 hours of those documents being available on said website.

(e) If a corporate entity's ownership changes or the right to control the corporate entity passes from one person or group to another person, group, or receiver, the individual licensee who qualifies that corporate entity to engage in irrigation contracting shall notify the Board within five business days of the date when the change in the right of control becomes effective. Such changes include the addition of or termination of partnerships, changes in corporate form such as from corporation to limited liability company, sale or transfer of a controlling interest in the corporate entity, merger of the corporate entity with another person, or dissolution of the person's corporate or other legal status.

(f) An individual licensee who qualifies a corporate entity to engage in irrigation contracting shall notify the Board in a timely fashion of the beginning of any of the following legal actions in which the corporate entity, as the petitioner or respondent:

- (1) has been named a respondent under an action for legal dissolution by the North Carolina Department of Justice or by a partner, shareholder, or such other person that may have the right or authority to bring such action;
- (2) has been notified of its administrative dissolution by the North Carolina Secretary of State; or
- (3) has been notified of the initiation of any legal proceeding that may affect its corporate form, ownership, right of control, or otherwise affect its status or ability to comply with G.S. 89G and the Board's rules.

Notice to the Board shall be timely if the Board receives written notice or e-mail of such action within 10 business days of the receipt of notice or service of legal process by the individual licensee or the registered agent of the corporate entity.

(g) Any individual licensee whose license has been suspended solely due to cancellation of his or her surety bond or irrevocable letter of credit may apply for reinstatement upon providing the following to the Board:

- (1) a valid surety bond or irrevocable letter of credit naming him or her as principal;
- (2) an affidavit affirming that the suspended licensee has otherwise complied with all obligations of a licensee under G.S. 89G and has refrained from practicing irrigation construction or contracting except as may be subject to a statutory exemption;
- (3) proof of compliance with the licensee's continuing education requirements for each calendar year in which the suspension has been in force; and
- (4) a reinstatement fee.

*History Note: Authority G.S. 89G-5; 89G-6; 89G-10;  
Eff. August 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 22, 2014;  
Amended Eff. November 1, 2016.*

