21 NCAC 18B. 0306 is amended with changes as published in 40:15 NCR 1252:

21 NCAC 18B .0306 BONA FIDE EMPLOYEE

(a) For the exemption for electrical work done as a bona fide employee of a ~~license~~ licensee under G.S. 87-43.1(3), the following conditions must be met:

(1) The restrictions of the employing licensee's license apply to any employee of the licensee.

(2) The employing licensee shall have control and direction of the details, methods, and manner of performing the electrical work being done by the employee. ~~The manner of payment, if any, to the person shall not be the sole determining factor concerning whether the person is an employee.~~

(3) The electrical work shall be performed under the supervision and direction of a listed qualified individual who is the employing licensee, or under the supervision and direction of a listed qualified ~~individual~~ individual, as defined by G.S. 87-41.1, regularly employed by the employing ~~licensee~~ licensee, and issued a ~~w-2~~ W-2 by the employing licensee.

(4) Persons acting as independent contractors, consultants, or subcontractors, or paid in cash without tax withholding, or issued a 1099 form, are not bona fide employees.

(5) Licensed contractors may utilize employees shared with a labor supplier but only under a written contract. That written contract must allocate payroll or tax withholding obligations to the labor supplier while also placing the responsibilities of control and supervision of all electrical work upon the listed qualified individual and licensed firm. The listed qualified individual and licensed firm shall remain obligated to the owner or general contractor for all electrical installations, and the listed qualified individual must be a bona fide employee of the licensed firm.

(b) ~~The employing licensee, the employee, and every listed qualified individual of the licensee~~ Every listed qualified individual and all employees of the licensed firm shall furnish any information the Board may require, including affidavits, to evaluate and determine a claim of employee exemption.

(c) When the information furnished to the Board does not substantiate compliance with this Rule, the individual shall be deemed to be an independent contractor rather than an employee and shall be subject to ~~G.S. Chapter 87, Article 4.~~ Article 4 of Chapter 87 of the General Statutes.

History Note: *Authority G.S. 87-42; G.S. 87-43.1(3);*
Eff. October 1, 1988;
Amended Eff. April 1, 1993; February 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest
Eff. February 2, ~~2016.~~ 2026;
Amended Eff. August 1, 2026.