

21 NCAC 12 .0205 is amended as published in 32:22 NCAC 2496-2497 as follows:

21 NCAC 12 .0205 QUALIFIER

(a) The qualifier for the applicant shall be a responsible managing employee, officer, or member of the personnel of the applicant, as described in G.S. 87-10. A person may serve as a qualifier for no more than two licenses. A qualifier's examination credentials shall archive if the qualifier does not serve as a qualifier for an active licensee for a period of four consecutive years. Any subsequent attempts to qualify for a license shall require the qualifier to earn a passing grade. Subject to the provisions of G.S. 150B and Section .0800 of these Rules, the Board may reject the application of an applicant seeking qualification by employment of a person who has already passed an examination if such person has previously served as qualifier for a licensee that has been disciplined by the Board.

(b) A licensee shall notify the Board in writing in the event a qualifier ceases to be connected with the licensee. The notice shall include the date on which the qualifier was last connected with the licensee and shall be submitted no later than 10 days after the date of separation. A qualifier shall also be required to notify the Board in writing in such circumstances. After such notice is filed with the Board in writing, or the Board determines that the qualifier is no longer connected with the licensee if there are no additional qualifiers for the licensee, the license shall remain in full force and effect for a period of 90 days from the termination date, and then becomes invalid unless a qualifier has transferred a valid examination credential to the licensee, as provided by G.S. 87-10.

(c) Persons associated with a firm or corporation may take the required examination on behalf of the firm or corporation as described in G.S. 87-10. A partner may take an examination on behalf of a partnership.

(d) "Responsible managing" as used in G.S. 87-10 shall describe a person who is engaged in the work of the applicant a minimum of 20 hours per week or a majority of the hours operated by the applicant, whichever is less.

(e) "Members of the personnel" as used in G.S. 87-10 shall describe a person who is a responsible managing employee of the applicant. A member of the personnel shall not be an independent contractor.

(f) An applicant or licensee may have more than one qualifier. If one person associated with the applicant fails, and another passes, the license will be granted to that applicant. A license will be issued only in the classification held by a qualifier who has passed an examination in that classification.

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-11(a);

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. April 1, 2014; July 1, 2008; April 1, 2006; August 1, 2000; June 1, 1994; June 1, 1992; May 1, 1989; July 1, 1987;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. April 1, ~~2018~~; 2018; September 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12 .0209

DEADLINE FOR RECEIPT: Tuesday, August 7, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please consider changing all musts to "shall" in this Rule.

Are the contents of the application set forth elsewhere in rule or statute? If not, please provide the substantive requirements of the form.

Just so I understand, will a person always have to file a Certificate of Assumed Name with an application or only when it is required by 66-71.4? Please review and clarify if needed.

Is "a copy of such certification must be provided with application to the Board" on lines 6-7 necessary? It appears to be duplicative of the requirement that "any application made pursuant to G.S. 87-10, shall be accompanied by a Certificate of Assumed Name."

Please consider adding "such as" after "State's office" on line 9 and move the kinds of documents after "such as": "... a copy of any documents—~~(Articles of Incorporation, Certificate of Authority, etc.)~~—required to be filed with the North Carolina Secretary of State's office. office, such as Articles of Incorporation or Certificate of Authority."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: July 23, 2018

21 NCAC 12 .0209 is amended as published in 32:22 2496-2497 as follows:

21 NCAC 12 .0209 APPLICATION

(a) Any application made pursuant to G.S. 87-10, shall be accompanied by a Certificate of Assumed Name ~~when filing is required with the Register of Deeds office in the county in which the applicant is to conduct its business, pursuant to G.S. 66-68.~~ filed in accordance with Chapter 66, Article 14A of the General Statutes. A copy of such

certification must be provided with the application to the Board. Applications submitted to the Board on behalf of corporations, limited liability companies and partnerships must be accompanied by a copy of any documents (Articles of Incorporation, Certificate of Authority, etc.) required to be filed with the North Carolina Secretary of State's office.

(b) All licensees must comply with the requirements of G.S. ~~66-68~~ 66-71.4 and must notify the Board within 30 days of any change in the name in which the licensee is conducting business in the State of North Carolina.

~~(e) Applicants for license and licensees may use only one assumed name.~~

~~(d)~~ (c) No applicant or licensee shall use or adopt an assumed name used by any other licensee, or any name so similar to an assumed name used by another licensee that could confuse or mislead the public.

History Note: Authority G.S. 87-1; 87-4; 87-10; 66-71.4

Eff. August 1, 2000;

Amended Eff. April 1, 2014;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, ~~2016.~~ 2016;

Amended Eff. September 1, 2018.