

21 NCAC 18B. 0306 is amended as published in NCR 39:24, pages 1616-1617 as follows:

21 NCAC 18B .0306 BONA FIDE EMPLOYEE

(a) For the exemption for electrical work done as a bona fide employee of a license 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 regularly employed by the employing licensee.
- (4) Persons acting as independent contractors, consultants or subcontractors, or paid as such, are not bona fide employees.
- (5) Licensed contractors may utilized employees shared with a labor supplier but only under a written contract which allocates 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 who remain obligated to the owner or general contractor for all electrical installations, and further provided that the listed qualified individual is 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.

History Note: Authority G.S. 87-42;

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.

Amended Eff. January 1, 2026;