

FREQUENTLY ASKED QUESTIONS

1. How often do I have to renew my license?

You must renew your license every year by 12/31 for the following year. The license is deemed renewed on time if the form and payment are received in an envelope that is post-marked 12/31 by the U.S. Postal Service or by the commercial delivery service. However, it is not deemed renewed even if received on time if the form is not complete and/or the check fails to clear. Do not send payment in cash.

2. What happens if I don't renew my license?

You will be in violation of the law if you contract for, install, repair or service an irrigation system unless the work is covered by one of the statutory exemptions (See item 12 for a description of all items whose costs are considered.). You will also be in violation of the law if you advertise using any title or description that implies that you are a licensed contractor. That includes continuation of any advertising that exists while your license is in good standing (e.g. phone book listings, billboards, newspaper advertisements, etc.).

If the lapsed license is reinstated during the following calendar year, both the license renewal fee and the late renewal fee have to be paid. For the individual license holder (the licensed contractor) if the license is allowed to lapse, the licensee has twelve (12) months to renew. Once the twelve (12) months pass, the only way the individual can be licensed is to apply to the Board for licensing through examination and to take and pass the Board examination.

3. Why do I need continuing education?

As an industry we need to conserve water and be as efficient with water as possible. Trends, technology, laws and products are changing very rapidly and keeping well informed is of the utmost importance to our industry and our livelihoods.

4. Why are we required to get 10 credit hours of Continuing Education annually when other licensing boards require much less? What happens if I do not complete 10 credit hours of Continuing Education during the calendar year?

When the North Carolina Irrigation Contractors' Licensing Bill was drafted, the writers of the legislation felt that contractors licensed by the bill needed to remain current in new technology. With that objective, they wrote into the law a requirement for 10 hours of Continuing Education annually. While the 10 hours annually may be greater than for some other professions, it is less than for many other professions; some professions require up to 40 hours annually. Continuing Education has to be landscape and turf irrigation related except for the annual requirement of two hours of business classes. However, a licensee cannot get credit for more than four hours of business classes annually.

If a licensed contractor fails to complete the 10 hours of Continuing Education as required, Section 89G-9(b) states that the license is forfeited. There is no grace period. If a person allows his/her license to be forfeited, the individual must apply to the Board for licensing through examination and take and pass the Board examination. Licensees may be asked to provide documentation proving their attendance at approved continuing education classes. Failure to provide such documentation may result in license forfeiture. If a license is forfeited for this reason, the license renewal fee is not refunded.

5. What is a Surety or Compliance Bond?

A Surety Bond is a three-party instrument between surety, which is usually an insurance company, the contractor and the project owner. The agreement binds the contractor to comply with the terms and conditions of a contract. If the contractor is unable to successfully perform the contract, the surety assumes the contractor's responsibilities and ensures that the project is completed. Instead of obtaining a Surety Bond, an Irrevocable Letter of Credit issued by an insured credit institution (bank, credit union, etc.) can be used. This Letter of Credit indicates that funds are held by the credit institution to cover the contractor's responsibilities to ensure that projects are completed.

6. Who is required to obtain a Surety Bond or Irrevocable Letter of Credit?

All licensed corporations, partnerships and LLC's and all licensed persons in an individually owned business must obtain a Surety Bond or Irrevocable Letter of Credit. The law does allow one Surety Bond or Irrevocable Letter of Credit to meet the requirement for a corporation, partnership or LLC, and all licensed individuals employed by the corporation, partnership or LLC. The Surety Bond or Irrevocable Letter of Credit must list the corporation, partnership or LLC and all licensed individuals covered by the Surety Bond or Irrevocable Letter of Credit. An original of the Surety Bond or Irrevocable Letter of Credit must be sent to the Board Administrative Office. Surety Bonds cover a period of one year and if not renewed the corporation, partnerships or LLC, and all individuals covered by the Surety Bond may have their licenses suspended, denied, restricted or revoked. If the license for an individual is revoked, the individual must apply to the Board for licensing through examination and take and pass the Board examination. While the license is revoked or suspended and possibly while the license is restricted, depending on the type of restriction, the individual, corporation, partnership or LLC cannot contract for, install, repair or service an irrigation system unless the work is covered by one of the statutory exemptions (See Item 12 for a description of all items whose costs are considered). The individual and the corporation, partnership or LLC will be in violation of the law if they use any title or description that implies that they are a licensed irrigation contractor. That includes continuation of any advertising that existed while the license was in good standing (e.g. phone book, billboard, newspaper advertisement, etc.).

7. I am employed by a licensed corporation, partnership or LLC. Do I need a Surety Bond or Irrevocable Letter of Credit issued by an insured institution?

If you are a licensed contractor employed by a licensed corporation, partnership or LLC, you do not need a separate Surety Bond or Irrevocable Letter of Credit for work done while being employed by the corporation, partnership or LLC, but your name must be listed on the Surety Bond or Irrevocable Letter of Credit. If you are not licensed as an irrigation contractor you may not be listed on the Surety Bond or Irrevocable Letter of Credit. If you perform any irrigation contracting work outside your employment for the corporation, partnership or LLC where the total cost of all items needed to install the irrigation system exceed \$2500 or where the nature of the work places it under any of the other statutory exemptions (see Item 12 for a description of all items whose cost are considered) you must be licensed and must have a current Surety Bond or Irrevocable Letter of Credit.

8. What if I conduct irrigation contracting without being licensed?

If the Board receives a complaint, you will be sent a Cease and Desist letter. The complaint will be forwarded to a Board Investigator. If the investigator finds evidence that you have installed an irrigation system where the total cost of all components exceeded \$2500, and the work is not covered by an exemption (See item 12 for a description of all items whose costs are considered.) your file will be referred to the Board's Attorney, an employee of the North Carolina Department of Justice. Following review of the investigation you may receive a Notice of Violation and be asked to settle the matter by signing a formal settlement agreement. If you refuse to settle the violation you can be fined up to \$2000.

9. How does a license help me in my business?

You will be seen as a reliable business that adheres to high standards. People are more likely to do business with licensed professionals.

10. Why should I go through the trouble and expense to become licensed? The North Carolina Landscape Contractors Registration Board is not able to regulate the landscape contracting businesses in North Carolina. How is the Irrigation Board going to regulate the irrigation business?

The law passed for landscape contracting in 1976 was a "Title Act," in that it only restricted contractors from calling themselves "Landscape Contractors". North Carolina Law 89G 1-13 is a "Practice Act;" it addresses those calling themselves Irrigation Contractors and those performing the duties of an Irrigation Contractor. If you contract for irrigation services you are required to be licensed unless your work falls into a specific exemption.

The North Carolina Irrigation Contractors' Licensing Board has an on-line complaint form. The Board has investigators who investigate complaints. Complaints include advertising, unlicensed installers and both unlicensed installers and licensed contractors installing irrigation systems that do not meet Minimum Standards. When a complaint is received a Cease & Desist Letter is mailed to the entity on whom the complaint is filed. If the investigation determines that a violation of the law has occurred, the Board attorney pursues the proper legal action to correct the violation.

11. I only do service work on irrigation systems and my bill never goes over \$2,500. Why should I get licensed?

The law established a \$2,500 limit per site. Can you limit the total work performed on a site over many years to less than \$2,500? You will likely pass that threshold in a few years. As soon as you do you will be in violation of the law. Don't devise a business plan with the main goal of avoiding becoming licensed. You will limit your possibilities in the future. (See item 12 for a description of all items whose costs are considered.)

12. Can I install an irrigation system if it runs under \$2500?

G.S. 89G-3(5) states that irrigation installers do not have to be licensed if the cost of any irrigation construction or contracting work, including all costs for labor, material and other items related to the job, is less than \$2500. When water is supplied by a water supplier, the price of all contracts at the job site includes the water meter where required by the water purveyor or by law, backflow prevention device, separate booster pump when required, any electrical contracting and the labor, material and other items, including sleeving, to install the irrigation system. When rainwater is collected and stored for irrigation reuse the collection and storage system is considered in the overall project costs. When groundwater is obtained from well systems, the total cost includes the cost of the well (when the well is installed for irrigation), pump, any electrical contracting and the labor, materials and other items including sleeving to install the irrigation system. For surface water supply irrigation systems (ponds and streams), the system costs include the pump, any electrical contracting and labor, material and other items, required to install the irrigation system.

13. Is this just another way for the government to get involved in my business? They don't know anything about irrigation contracting and will just require me to do things I can't afford to do.

The Irrigation Contracting Licensing Bill was initially drafted by irrigation professionals, with assistance from the Carolinas Irrigation Association (CIA) and the Green Industry Council (GIC). It was a response to the droughts where municipalities were limiting irrigation due to water shortages. This was affecting the livelihood of irrigation contractors and all the other professionals involved in the green industry. The idea was that if the green industry was installing quality, water conserving irrigation systems that water purveyors would not impose more stringent water restrictions on irrigation or possibly might reduce some of the restrictions. A well designed, installed, operated, maintained and managed irrigation system can maintain the landscape/turf in good condition and not waste water.

Question 13 continued...

The drafters of the legislation included the requirement for annual continuing education (10 hours per year) so that contractors would remain current in new practices and products. Similarly the bill drafters required that the Board develop a set of Minimum Standards that licensed contractors must follow and develop a set of Best Management Practices that are suggestions that contractors follow.

To ensure that the consumer is protected the bill drafters also require that licensed contractors maintain a \$10,000 Surety Bond or an Irrevocable Letter of Credit that can be used in case of damages done by the contractor, failure to complete or failure to meet Minimum Standards in system installation.

The bill drafters stated that members serving on the Board include five licensed irrigation contractors, one registered landscape contractor, one licensed landscape architect, one public member and one current or retired member from the University of North Carolina System who had irrigation experience. The Board members work hard to ensure that quality, water conserving irrigation systems that will assist in maintaining quality landscape/turf are being installed. They give of their time to carry out the mandates of the licensing law.

The Board is actively involved in enforcement of the law using part time investigators who investigate complaints concerning both unlicensed installers and licensed contractors. The Board has an attorney who is a staff attorney in the Office of the Attorney General of North Carolina to assist with appropriate legal action where required.

14. Is this just another way for the government to make money?

The North Carolina Irrigation Contractors' Licensing Board is supported entirely by license applications, renewals and examination fees, and receives no tax revenue. The income received is used to:

- 1) employ an administrative firm that handles Board's day to day business;
- 2) pay the expenses of the part time Board investigators;
- 3) pay the fees charged for legal services by the N.C. Department of Justice;
- 4) pay the cost of administering the licensing examination; and
- 5) pay travel expenses and per diem for Board members to attend Board meetings.

The Board also has purchased an exhibit which is used for trade show exhibits, brochures for distribution at trade shows and posters and flyers which are distributed to suppliers, permitting departments and inspection departments.

15. Can Licensed Irrigation Contractors install a backflow device?

Legislation in place previous to the irrigation contracting law already regulated backflow prevention devices. Backflow devices must be installed by a licensed plumber or utility contractor. A licensed irrigation contractor cannot install, repair or test a backflow prevention device. The North Carolina Irrigation Contractors' Licensing Bill states that the irrigation system starts after the backflow prevention device. Licensed plumbers and utility contractors can also repair and replace backflow prevention devices. To test backflow prevention devices, an individual must be certified as a back flow tester. This requires a 40-hour course and periodic retraining. Municipalities have varying rules about who can test backflow prevention devices on their systems. Backflow prevention device testing requirements are not consistent across the state.

16. How was this law advertised?

Several public service announcements were sent to irrigation equipment suppliers, to organizations such as the GIC and CIA and to member organizations of the GIC and CIA. Board members attended meetings at equipment suppliers. Licensing boards such as the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, the North Carolina Landscape Contractors Registration Board, the North Carolina Chapter of the American Society of Landscape Architects, the Carolinas Irrigation Association and the North Carolina Irrigation Society, Inc., sent announcements to their members. Faculty members at North Carolina State University's Horticultural Science Department, and Biological and Agricultural Engineering Department sent out information on the Licensing Bill. The Board had a website in operation in March 2009. Because the Licensing Board did not have individual names of companies performing irrigation services, there was no way to personally contact individual companies. The irrigation equipment suppliers had notices posted in their places of business announcing the Licensing Bill.

17. Why am I required to have an individual license AND a corporate license?

The drafters of this legislation felt that both the corporation, partnership or LLC and an officer or full time employee of a corporation, partnership or LLC needed to possess a license to insure that the corporation, partnership or LLC has a competent individual supervising all of its irrigation contracting and construction. The only exception is an individually owned business where the individual has to be licensed. For a corporation, partnership or LLC to obtain a corporate license, a principal or full time employee must be licensed. If the sole licensed individual leaves employment of the corporation, partnership or LLC, the corporation, partnership or LLC can no longer be licensed.

18. If I turn someone in for a violation will my name be given out?

The Board and Board investigators attempt to not disclose names of those making the complaint but cannot guarantee that the name will never be disclosed. If a case comes to a hearing before the Board or goes to Superior Court, the name of the person making the complaint is likely to be disclosed. As of September 28, 2010, for complaints of unlicensed installers and for most other complaints, the name of the person making the complaint will not be provided to the investigator. If the investigator needs information from the person making the complaint, he will contact the Board office and the Administrative staff will obtain the information and provide it to the investigator.

19. Why does the Board do annual audits of Continuing Education?

When a licensee submits CEUs for license renewal, the licensee is on the honor system. No proof of CEU credit is required at that time. However when a licensee is audited, the licensee must submit proof for the CEU credit submitted. All organizations that require continuing education have systems to verify that CEU credit claimed was actually obtained. The annual audit is random and the names of the individuals selected for audit are known only after the random license numbers are drawn.

20. Why does the Board not allow licensees to submit CEUs electronically?

Whether CEUs are submitted electronically or when the license is renewed, it is still the responsibility of the licensee to know the number of CEUs completed and to maintain documentation. Even if CEUs are submitted electronically, the licensee will be asked to report the number of CEUs obtained with the annual renewal fee.