

58-55-306 Financial responsibility.

- (1) An applicant for licensure as a contractor, and a licensee applying for renewal or reinstatement of a contractor's license shall demonstrate to the division and the commission the applicant's or licensee's financial responsibility before the issuance of or the renewal or reinstatement of a license by:
 - (a)
 - (i) completing a questionnaire developed by the division; and
 - (ii) signing the questionnaire, certifying that the information provided is true and accurate; or
 - (b) submitting a bond in an amount and form determined by the commission with the concurrence of the director.
- (2) A licensee, including an individual who holds an ownership interest in an unincorporated entity licensee, shall maintain financial responsibility throughout the period of licensure.
- (3) The division may audit the financial responsibility of an applicant or licensee on a random basis or upon finding of a reasonable need.
- (4) The burden to demonstrate financial responsibility is upon the applicant, licensee, or owner of an unincorporated entity licensee, as the case may be.
- (5)
 - (a) In determining the financial responsibility of an applicant or licensee described in Subsection (1) that is an unincorporated entity, the division:
 - (i) shall consider the personal financial information of each individual who holds an ownership interest in the unincorporated entity; and
 - (ii) may, at any time:
 - (A) audit the personal financial information of any individual who holds an ownership interest in the unincorporated entity; or
 - (B) request and obtain a credit report on the individual.
 - (b) If, based on the personal financial information of one or more individuals who hold an ownership interest in the unincorporated entity, the division determines that the applicant or licensee lacks financial responsibility to engage successfully in business as a contractor, the division may:
 - (i) prohibit the individual or individuals from engaging in a construction trade;
 - (ii) prohibit the applicant or licensee from engaging in a construction trade, unless the individual or individuals dissociate from the applicant or licensee within 10 days after the division makes the determination of a lack of financial responsibility; or
 - (iii) require the individual or individuals, applicant, or licensee to submit a bond that is in a form determined by the commission with the concurrence of the director and in an amount that is:
 - (A) determined by the commission with the concurrence of the director; or
 - (B) 20% of the annual gross distributions from the unincorporated entity to its owners and that includes coverage for unpaid obligations incurred by the licensee contractor and any failure of the licensee contractor owners to pay income taxes and self-employment taxes on the gross distributions from the unincorporated entity to its owners.

Amended by Chapter 57, 2013 General Session