

## Article 73.

### Bonds in Surety Company.

#### **§ 58-73-1. State officers may be bonded in surety company.**

All persons who are required to give bond to the State of North Carolina to be received by the Governor or by any department of the State government, in lieu of personal security, may give as security for said bond and for the performance of the duties named in the said bond any indemnity or guaranty company authorized to do business in the State of North Carolina, subject to such regulations as the Governor or department may prescribe, and with power in them to demand additional security at any time. Any person presenting any indemnity or guaranty company as surety shall accompany his bond with a statement of the Insurance Commissioner as to the condition of such company as required by law. (1901, c. 754; Rev., s. 272; C.S., s. 338.)

#### **§ 58-73-5. When surety company sufficient surety on bonds and undertakings.**

A bond or undertaking by the laws of North Carolina required or permitted to be given by a public official, fiduciary, or a party to an action or proceeding, conditioned for the doing or not doing of an act specified therein, shall be sufficient when it is executed or guaranteed by a corporation authorized in this State to act as guardian or trustee, or to guarantee the fidelity of persons holding places of public or private trust, or to guarantee the performance of contracts, other than insurance policies, or to give or guarantee bonds and undertakings in actions or proceedings.

The bond or undertaking of a corporation having such power shall be sufficient, although the law or regulation in accordance with which it is given requires two or more sureties, or requires the sureties to be residents or freeholders. But the clerk of the superior court may exercise his discretion as to accepting such a corporation's surety on the bonds of fiduciaries or parties to actions or proceedings. (1895, c. 270; 1899, c. 54, s. 45; 1901, c. 706; Rev., s. 273; C.S., s. 339.)

#### **§ 58-73-10. Clerk to notify county commissioners of condition of company.**

Each clerk of the superior court shall furnish the chairman of the board of county commissioners of his county with notice of each surety company licensed in this State, and of each surety company whose license has been revoked, in which any officer of the county has been bonded. (Rev., ss. 295, 4803; C.S., s. 340.)

#### **§ 58-73-15. Release of company from liability.**

A company executing such bond, obligation or undertaking, may be released from its liability or security on the same terms as are or may be by law prescribed for the release of individuals upon any such bonds, obligations or undertakings. (1899, c. 54, s. 48; Rev., s. 274; C.S., s. 341.)

#### **§ 58-73-20. Company not to plead ultra vires.**

Any company which executes any bond, obligation or undertaking under the provisions of this Article is estopped, in any proceeding to enforce the liability which it assumes to incur, to deny its corporate power to execute such instrument or assume such liability. (1899, c. 54, s. 49; 1901, c. 706, s. 1, subsec. 5; Rev., s. 275; C.S., s. 342.)

#### **§ 58-73-25. Failure to pay judgment is forfeiture.**

If a surety company against which a judgment is recovered fails to discharge the same within 60 days from the time such final judgment is rendered, it shall forfeit its right to do business in this

State, and the Insurance Commissioner shall cancel its license. (1901, c. 706, s. 1, subsec. 5; Rev., s. 275; C.S., s. 343.)

**§ 58-73-30. On presentation of proper bond officer to be inducted.**

Upon presentation to the person authorized by law to take, accept and file official bonds, of any bond duly executed in the penal sum required by law by the officer chosen to any such office, as principal, and by any surety company, as security thereto, whose insurance or guaranty is accepted as security upon the bonds of United States bonded officials (such insurance company having complied with the insurance laws of the State of North Carolina), or by any other good and sufficient security thereto, such bond shall be received and accepted as sufficient, and the principal thereon shall be inducted into office. (1899, c. 54, s. 53; 1901, c. 706, s. 1, subsec. 5; Rev., s. 276; C.S., s. 344.)

**§ 58-73-35. Expense of fiduciary bond charged to fund.**

A receiver, assignee, trustee, committee, guardian, executor or administrator, or other fiduciary required by law to give a bond as such, may include as part of his lawful expenses such sums paid to such companies for such suretyship to the extent of bond premiums actually paid per annum on the account of such bonds as the clerk, judge or court may allow. (1901, c. 706, s. 1, subsec. 5; Rev., s. 277; C.S., s. 345; 1939, c. 382.)