

§ 58-64A-260. Surety bond; letter of credit.

(a) **Alternative Funding Methods.** – In lieu of funding the operating reserve with qualifying assets as set forth in G.S. 58-64A-255, a provider may fund all or a portion of the operating reserve required by this Part by filing with the Commissioner a surety bond or letter of credit as set forth in this section.

(b) **Surety Bond.** – A surety bond shall be in a form acceptable to the Commissioner and issued by an insurer authorized by the Commissioner to write surety business in this State. All of the following shall apply to surety bonds issued pursuant to this Article:

- (1) The surety bond may be exchanged or replaced with another surety bond if (i) the surety bond applies to obligations and liabilities that arose during the period of the original surety bond, (ii) the surety bond meets the requirements of this section, and (iii) 90 days' advance written notice is provided to the Commissioner.
- (2) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the provider and the Commissioner in writing at least 45 days before cancellation or nonrenewal.
- (3) A surety bond may be canceled by the issuer of the bond with respect to future obligations or liabilities upon proper notice pursuant to this section and without regard to approval or acceptance of the Commissioner.

(c) **Letter of Credit.** – A provider may file a clean, irrevocable, unconditional letter of credit issued or confirmed by a qualified United States financial institution as defined in G.S. 58-7-26(b) naming the Commissioner as beneficiary. The terms of the letter of credit shall be approved by the Commissioner before issuance and before its renewal or modification. The letter of credit shall provide all of the following information:

- (1) Ninety days' prior written notice to both the provider and the Commissioner of the financial institution's determination not to renew or extend the term of the letter of credit.
- (2) Unless otherwise arranged by the provider to the satisfaction of the Commissioner, deposit by the financial institution of letter of credit funds in an account designated by the Commissioner no later than 30 days before the expiration of the letter of credit.
- (3) Deposit by the financial institution of letter of credit funds in an account designated by the Commissioner within five business days following written instructions from the Commissioner that, in the sole judgment of the Commissioner, funding of the operating reserve is required. (2025-58, s. 2.)