

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 584\*  
Judiciary II Committee Substitute Adopted 4/20/09  
Finance Committee Substitute Adopted 5/27/09  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S584-PCS55457-SVf-42

Short Title: Amend Private Protective Services Act.

(Public)

Sponsors:

Referred to:

March 12, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE PRIVATE PROTECTIVE SERVICES ACT, TO MAKE  
3 CONFORMING CHANGES TO THE ALARM SYSTEMS LICENSING ACT WITH  
4 RESPECT TO CRIMINAL BACKGROUND CHECKS, AND TO AUTHORIZE THE  
5 STUDY OF DIGITAL FORENSICS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 74C-3(b) is amended by adding a new subdivision to read:

8 "(b) "Private protective services" shall not include any of the following:

9 ...

10 (17) A person engaged in (i) computer or digital forensic services or in the  
11 acquisition, review, or analysis of digital or computer-based information,  
12 whether for the purposes of obtaining or furnishing information for  
13 evidentiary or other purposes, or for providing expert testimony before a  
14 court; or (ii) network or system vulnerability testing, including network  
15 scans and risk assessment and analysis of computers connected to a network.

16 ...."

17 **SECTION 2.** G.S. 74C-7 reads as rewritten:

18 "**§ 74C-7. Investigative powers of the Attorney General.**

19 The Attorney General for the State of North Carolina shall have the power to investigate or  
20 cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations  
21 of this Chapter involving individuals licensed, or to be licensed, under this Chapter. Any  
22 investigation conducted pursuant to this section is confidential and is not subject to review  
23 under G.S. 132-1 until the investigation is complete and a report is presented to the Board.  
24 However, the report may be released to the licensee after the investigation is complete but  
25 before the report is presented to the Board."

26 **SECTION 3.** G.S. 74C-8 reads as rewritten:

27 "**§ 74C-8. ~~Applications for an issuance of license.~~ License requirements.**

28 (a) License Required. – Any person, firm, association, or corporation desiring to carry  
29 on or engage in the private protective services profession in this State shall be licensed in  
30 accordance with this Chapter. ~~shall make a verified application in writing to the Board.~~



\* S 5 8 4 - P C S 5 5 4 5 7 - S V F - 4 2 \*

1 (b) Application. – To apply for a license, an applicant must submit a verified  
2 application in writing to the Board that includes all of the following:~~The application shall~~  
3 ~~include:~~

- 4 (1) Full name, home address, post office box, and the actual street address of the  
5 ~~business of the applicant;~~applicant's business.
- 6 (2) The name under which the applicant intends to do ~~business;~~business.
- 7 (3) A statement as to the general nature of the business in which the applicant  
8 intends to ~~engage;~~engage.
- 9 (4) The full name and address of any partners in the business and the principal  
10 officers, directors and business manager, if ~~any;~~any.
- 11 (5) The names of not less than three unrelated and disinterested persons as  
12 references of whom inquiry can be made as to the character, standing, and  
13 reputation of the persons making the ~~application;~~application.
- 14 (6) Such other information, evidence, statements, or documents as may be  
15 required by the ~~Board;~~ and Board.
- 16 (7) Accompanying trainee permit applications only, a notarized statement  
17 signed by the applicant and his employer stating that the trainee applicant  
18 will at all times work with and under the direct supervision of a licensed  
19 private detective.

20 (c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages  
21 in private protective services is subject to all of the requirements listed in this subsection with  
22 respect to a qualifying agent. For purposes of this Chapter, a 'qualifying agent' is an individual  
23 in a management position who is licensed under this Chapter and whose name and address have  
24 been registered with the Director. The requirements are:

- 25 (1) ~~A business entity other than a sole proprietorship shall not do business under~~  
26 ~~this Chapter unless the business entity has in its~~ The business entity shall  
27 employ a designated resident qualifying agent who meets the requirements  
28 for a license issued under this Chapter and who is, in fact, licensed under the  
29 provisions of this Chapter, unless otherwise approved by the Board.  
30 Provided however, that this approval shall not be given unless the business  
31 entity has and continuously maintains in this State a registered agent who  
32 shall be an individual resident in this State. Service upon the registered agent  
33 appointed by the business entity of any process, notice, or demand required  
34 by or permitted to be served upon the business entity by the Private  
35 Protective Services Board shall be binding upon the business entity and the  
36 licensee. Nothing herein contained shall limit or affect the right to serve any  
37 process, notice, or demand required or permitted by law to be served upon a  
38 business entity in any other manner now or hereafter permitted by law.
- 39 (2) ~~For the purposes of the Chapter a qualifying agent means an individual in a~~  
40 ~~management position who is licensed under this Chapter and whose name~~  
41 ~~and address have been registered with the Director.~~
- 42 (3) In the event that the qualifying agent upon whom the business entity relies in  
43 order to do business ceases to perform his duties as qualifying agent, the  
44 business entity shall notify the Director within 10 working days. The  
45 business entity must obtain a substitute qualifying agent within 30 days after  
46 the original qualifying agent ceases to serve as qualifying agent unless the  
47 Board, in its discretion, extends this period, for good cause, for a period of  
48 time not to exceed three months.
- 49 (4) The certificate authorizing the business entity to engage in a private  
50 protective services profession shall list the name of at least one designated  
51 qualifying agent. No licensee shall serve as the qualifying agent for more

1 than one business entity without prior approval of the Director, subject to the  
2 approval of the Board.

3 (5) ~~The Department of Justice may provide a criminal record check to the~~  
4 ~~Private Protective Services Board for a person who has applied for a new or~~  
5 ~~renewal license, registration, certification, or permit through the Private~~  
6 ~~Protective Services Board. The Board shall provide to the Department of~~  
7 ~~Justice, along with the request, the fingerprints of the applicant, any~~  
8 ~~additional information required by the Department of Justice, and a form~~  
9 ~~signed by the applicant consenting to the check of the criminal record and to~~  
10 ~~the use of the fingerprints and other identifying information required by the~~  
11 ~~State or national repositories. The applicant's fingerprints shall be forwarded~~  
12 ~~to the State Bureau of Investigation for a search of the State's criminal~~  
13 ~~history record file, and the State Bureau of Investigation shall forward a set~~  
14 ~~of the fingerprints to the Federal Bureau of Investigation for a national~~  
15 ~~criminal history check. The Board shall keep all information pursuant to this~~  
16 ~~subdivision privileged, in accordance with applicable State law and federal~~  
17 ~~guidelines, and the information shall be confidential and shall not be a public~~  
18 ~~record under Chapter 132 of the General Statutes.~~

19 ~~The Department of Justice may charge each applicant a fee for~~  
20 ~~conducting the checks of criminal history records authorized by this~~  
21 ~~subdivision.~~

22 (d) Criminal Record Check. – An applicant must meet all of the following requirements  
23 and qualifications determined by a background investigation conducted by the Board in  
24 accordance with G.S. 74C-8.1 and upon receipt of an application: Upon receipt of an  
25 application, the Board shall conduct a background investigation during the course of which the  
26 applicant shall be required to show that he meets all the following requirements and  
27 qualifications hereby made prerequisite to obtaining a license:

- 28 (1) ~~That he the applicant is~~ at least 18 years of age; age.  
29 (2) ~~That he the applicant is~~ of good moral character and temperate habits. The  
30 following shall be prima facie evidence that the applicant does not have  
31 good moral character or temperate habits: conviction by any local, State,  
32 federal, or military court of any crime involving the illegal use, carrying, or  
33 possession of a firearm; conviction of any crime involving the illegal use,  
34 possession, sale, manufacture, distribution, or transportation of a controlled  
35 substance, drug, narcotic, or alcoholic beverage; conviction of a crime  
36 involving felonious assault or an act of violence; conviction of a crime  
37 involving unlawful breaking or entering, burglary, larceny, or any offense  
38 involving moral turpitude; or a history of addiction to alcohol or a narcotic  
39 drug; provided that, for purposes of this subsection, "conviction" means and  
40 includes the entry of a plea of guilty or no contest or a verdict rendered in  
41 open court by a judge or jury; jury.  
42 (3) Repealed by Session Laws 1989, c. 759, s. 6.  
43 (4) ~~That he the applicant has~~ the necessary training, qualifications, and  
44 experience in order to determine the applicant's competency and fitness as  
45 the Board may determine by rule for all licenses to be issued by the Board.

46 (e) Examination. – The Board may require the applicant to demonstrate his the  
47 applicant's qualifications by oral or written examination or by successful completion of a  
48 Board-approved training program, or all three.

49 (f) Issuance. – Upon a finding that the application is in proper form, the completion of  
50 the background investigation, and the completion of an examination required by the Board, the  
51 Director shall submit to the Board the application and his the Director's recommendations.

1 Upon completion of the background investigation, the Director may ~~in his discretion~~ issue a  
2 temporary license pending approval of the application by the Board at the next regularly  
3 scheduled meeting. The Board shall determine whether to approve or deny the application for a  
4 license. Upon approval by the Board, a license will be issued to the applicant upon payment by  
5 the applicant of the initial license fee and the required contribution to the Private Protective  
6 Services ~~Recovery~~-Education Fund, and certificate of liability insurance.

7 (1) through (5) Repealed by Session Laws 1989, c. 759, s. 6.

8 (g) Confidentiality. – Except for purposes of administering the provisions of this section  
9 and for law enforcement purposes, the home address or telephone number of an applicant,  
10 licensee, or the spouse, children, or parents of an applicant or licensee is confidential under  
11 G.S. 132-1.2, and the Board shall not disclose this information unless the applicant or licensee  
12 consents to ~~such~~-the disclosure. The provisions of this subsection shall not apply when a  
13 licensee's home address or telephone number is also ~~his or her~~-the licensee's business address  
14 and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor."

15 **SECTION 4.** Article 1 of Chapter 74C of the General Statutes is amended by  
16 adding a new statutory section to read:

17 "**§ 74C-8.1. Criminal background checks.**

18 (a) Authorization. – Upon receipt of an application for a license, registration,  
19 certification, or permit, the Board shall conduct a background investigation to determine  
20 whether the applicant meets the requirements for a license, registration, certification, or permit  
21 set out in G.S. 74C-8(d). The Department of Justice may provide a criminal record check to the  
22 Board for a person who has applied for a new or renewal license, registration, certification, or  
23 permit through the Board. The Board shall provide to the Department of Justice, along with the  
24 request, the fingerprints of a new applicant, and the Department of Justice shall provide a  
25 criminal record check based upon the applicant's fingerprints. The Board may request a  
26 criminal record check from the Department of Justice for a renewal applicant based upon the  
27 applicant's fingerprints in accordance with policy adopted by the Board. The Board shall  
28 provide any additional information required by the Department of Justice and a form signed by  
29 the applicant consenting to the check of the criminal record and to the use of the fingerprints  
30 and other identifying information required by the State or national repositories. The applicant's  
31 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's  
32 criminal history record file, and the State Bureau of Investigation shall forward a set of the  
33 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The  
34 Department of Justice may charge each applicant a fee for conducting the checks of criminal  
35 history records authorized by this subsection.

36 The Board may require a new or renewal applicant to obtain a criminal record report from  
37 one or more reporting services designated by the Board to provide criminal record reports.  
38 Applicants are required to pay the designated reporting service for the cost of these reports.

39 (b) Confidentiality. – The Board shall keep all information obtained pursuant to this  
40 section confidential in accordance with applicable State law and federal guidelines, and the  
41 information shall not be a public record under Chapter 132 of the General Statutes."

42 **SECTION 5.** G.S. 74C-9(d) reads as rewritten:

43 "(d) The operator or manager of any branch office shall be properly licensed or  
44 registered. The license shall be posted at all times in a conspicuous place in the branch office.  
45 This license shall be issued for a term of ~~one year~~-two years. Every business covered under the  
46 provisions of this Chapter shall file in writing with the Board the addresses of each of its  
47 branch offices, if any, within 10 working days after the establishment, closing, or changing of  
48 the location of any branch office. The Director may, upon the successful completion of an  
49 investigation of the application, issue a temporary branch office license pending approval of the  
50 application by the Board."

51 **SECTION 6.** G.S. 74C-9(e) reads as rewritten:

1       "(e) The Board is authorized to charge reasonable application and license fees as  
2 follows:

- 3       (1) A nonrefundable initial application fee in an amount not to exceed one  
4 hundred fifty dollars ~~(\$150.00);~~(\$150.00).
- 5       (2) A new or renewal license fee in an amount not to exceed two hundred fifty  
6 dollars (\$250.00) per year of the license ~~term;~~term.
- 7       (3) A new or renewal trainee permit fee in an amount not to exceed two hundred  
8 fifty dollars (\$250.00) per year of the license ~~term;~~term.
- 9       (4) A new or renewal fee for each license or duplicate license in addition to the  
10 basic license referred to in subsection (2) in an amount not to exceed fifty  
11 dollars ~~(\$50.00);~~(\$50.00) per year of the license term.
- 12       (5) A late renewal fee to be paid within 90 days from the date the license,  
13 registration, permit, or certification expires in addition to the renewal fee due  
14 in an amount not to exceed one hundred dollars (\$100.00), if the ~~license~~  
15 license, registration, permit, or certification has not been renewed on or  
16 before the expiration date of the ~~license;~~license, registration, permit, or  
17 certification.
- 18       (6) A new, renewal, replacement or reissuance fee for an unarmed registration  
19 identification card in an amount not to exceed thirty dollars  
20 ~~(\$30.00);~~(\$30.00).
- 21       (7) An application fee for a firearm registration permit not to exceed fifty dollars  
22 ~~(\$50.00);~~(\$50.00).
- 23       (8) A new, renewal, replacement, or reissuance fee for a firearm registration  
24 permit not to exceed thirty dollars ~~(\$30.00);~~(\$30.00).
- 25       (9) An application fee for certification as a certified trainer not to exceed fifty  
26 dollars ~~(\$50.00);~~(\$50.00).
- 27       (10) A renewal or replacement fee for certified trainer certification not to exceed  
28 twenty-five dollars ~~(\$25.00);~~(\$25.00).
- 29       (11) A new nonresident temporary permit fee not to exceed one hundred dollars  
30 ~~(\$100.00);~~(\$100.00).
- 31       (12) An unarmed registration transfer fee not to exceed fifteen dollars  
32 ~~(\$15.00);~~(\$15.00).
- 33       (13) A branch office license fee not to exceed fifty dollars ~~(\$50.00); and~~(\$50.00)  
34 per year of the license term.
- 35       (14) A special limited guard and patrol license fee not to exceed one hundred  
36 dollars ~~(\$100.00);~~(\$100.00) per year of the license term.
- 37       (15) A correctable error fee not to exceed one hundred dollars (\$100.00) for each  
38 subsequent filing of an application following review and rejection of the  
39 initial application.

40 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be  
41 expended, under the direction of the Board, for the purpose of defraying the expenses of  
42 administering this Chapter."

43       **SECTION 7.** G.S. 74C-11(a) reads as rewritten:

44       "(a) All licensees may employ unarmed security guards as probationary employees for  
45 20 consecutive calendar days. Upon completion of the probationary period and the desire of the  
46 licensee to hire an unarmed security guard as a regular employee, the licensee shall register the  
47 employee who will be engaged in providing private protective services covered by this Chapter  
48 with the Board within 30 days after the probationary employment period ends, unless the  
49 Director, in the Director's discretion, extends the time period, for good cause. Before a  
50 probationary employee engages in private protective services, the employee shall complete any  
51 training requirements, and the licensee shall conduct a criminal record check on the employee,

1 as the Board deems appropriate. The licensee shall submit a list of the probationary employees  
2 to the Director on a monthly basis. The list shall include the name, address, social security  
3 number, and dates of employment of the employees.

4 To register an employee after the probationary period ends, a licensee must give the Board  
5 the following:

- 6 (1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent  
7 photograph(s) of acceptable quality for identification; and
- 8 (2) Statements of any criminal records obtained from the appropriate authority  
9 in each area where the employee has resided within the immediately  
10 preceding 48 months."

11 **SECTION 8.** G.S. 74C-12(a) reads as rewritten:

12 "(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny,  
13 suspend or revoke a license, registration, or permit issued under this Chapter if it is determined  
14 that the applicant, licensee, registrant, or permit holder has done any of the following acts:

- 15 (1) Made any false statement or given any false information in connection with  
16 any application for a license, registration, or permit or for the renewal or  
17 reinstatement of a license, registration, or permit.
- 18 (2) Violated any provision of this Chapter.
- 19 (3) Violated any rule adopted by the Board pursuant to the authority contained  
20 in this Chapter.
- 21 (4) Repealed by Session Laws 1989, c. 759, s. 10.
- 22 (5) Impersonated or permitted or aided and abetted any other person to  
23 impersonate a law enforcement officer of the United States, this State, any  
24 other state, or any political subdivision of a state.
- 25 (6) Engaged in or permitted any employee to engage in a private protective  
26 services profession when not lawfully in possession of a valid license issued  
27 under the provisions of this Chapter.
- 28 (7) Willfully failed or refused to render to a client service as agreed between the  
29 parties and for which compensation has been paid or tendered in accordance  
30 with the agreement of the parties.
- 31 (8) Knowingly made any false report to the employer or client for whom  
32 information is being obtained.
- 33 (9) Committed an unlawful breaking or entering, assault, battery, or kidnapping.
- 34 (10) Knowingly violated or advised, encouraged, or assisted the violation of any  
35 court order or injunction in the course of business as a licensee.
- 36 (11) Repealed by Session Laws 1989, c. 759, s. 10.
- 37 (12) Undertaken to give legal advice or counsel or to in any way falsely represent  
38 that he or she is representing any attorney or he or she is appearing or will  
39 appear as an attorney in any legal proceeding.
- 40 (13) Issued, delivered, or uttered any simulation of process of any nature which  
41 might lead a person ~~or persons~~ to believe that such simulation – written,  
42 printed, or typed – may be a summons, warrant, writ or court process, or any  
43 pleading in any court proceeding.
- 44 (14) Failed to make the required contribution to the Private Protective Services  
45 ~~Recovery-Education~~ Fund or failed to maintain the certificate of liability  
46 insurance required by this Chapter.
- 47 (15) Violated the firearm provisions set forth in this Chapter.
- 48 (16) Repealed by Session Laws 1989, c. 759, s. 10.
- 49 (17) Failed to notify the Director by a business entity other than a sole  
50 proprietorship licensed pursuant to this Chapter of the cessation of

- 1 employment of the business entity's qualifying agent within the time set  
2 forth in this Chapter.
- 3 (18) Failed to obtain a substitute qualifying agent by a business entity within 30  
4 days after its qualifying agent has ceased to serve as the business entity's  
5 qualifying agent.
- 6 (19) Been judged incompetent by a court having jurisdiction under Chapter 35A  
7 or former Chapter 35 of the General Statutes or committed to a mental health  
8 facility for treatment of mental illness, as defined in G.S. 122C-3, by a court  
9 under G.S. 122C-271.
- 10 (20) Failed or refused to offer a report to a client within 30 days of the client's  
11 written request after the client has paid for services rendered.
- 12 (21) Been previously denied a license, registration, or permit under this Chapter  
13 or previously had a license, registration, or permit revoked for cause. The  
14 denial or revocation shall include a principal in the applicant's business.
- 15 (22) Engaged in a private protective services profession under a name other than  
16 the name under which the license was obtained under the provisions of this  
17 Chapter.
- 18 (23) Divulged to any person, except as required by law, any information acquired  
19 by the license holder except at the direction of the employer or client for  
20 whom the information was obtained. A licensee may divulge to any law  
21 enforcement officer or district attorney or district attorney's representative  
22 any information the law enforcement officer may require to investigate a  
23 criminal offense with the prior approval and consent of the client.
- 24 (24) Fraudulently held himself or herself out as employed by or licensed by the  
25 State Bureau of Investigation or any other governmental authority.
- 26 (25) ~~Intemperate~~ Demonstrated intemperate habits or lacks a lack of good moral  
27 character. The acts that are prima facie evidence of intemperate habits or  
28 lack of good moral character under G.S. 74C-8(d)(2) are prima facie  
29 evidence of the same under this subdivision.
- 30 (26) Advertised or solicited business using a name other than that in which the  
31 license was issued.
- 32 (27) Worn, carried, or accepted any badge or shield purporting to indicate that the  
33 person is a law enforcement officer while licensed under the provisions of  
34 this Chapter as a private investigator.
- 35 (28) Possessed or displayed a badge or shield while providing private protective  
36 services that was not designed and approved by the Board pursuant to  
37 G.S. 74C-5(12).
- 38 (29) Failed or refused to reasonably cooperate with the Board or its agents during  
39 an investigation of any complaint, allegation, suspicion of wrongdoing, or  
40 violation of this Chapter.
- 41 (30) Failed to properly make any disclosure to the Board or provide documents or  
42 information required by this Chapter or rules adopted by the Board.
- 43 (31) Engaged in conduct constituting dereliction of duty or otherwise deceived,  
44 defrauded, or harmed the public in the course of professional activities or  
45 services.
- 46 (32) Demonstrated a lack of financial responsibility."

47 **SECTION 9.** G.S. 74C-12(c) reads as rewritten:

48 "(c) The following persons may not be issued a ~~license, registration, or permit~~ license  
49 under this Chapter:

- 50 (1) A sworn court official.

1 (2) A holder of a company police commission under Chapter 74E of the General  
2 Statutes."

3 **SECTION 10.** G.S. 74C-13(a) reads as rewritten:

4 "(a) It shall be unlawful for any person performing private protective services duties to  
5 carry a firearm in the performance of those duties without first having met the qualifications of  
6 this section and having been issued a firearm registration permit by the Board. A licensee shall  
7 register any individual carrying a firearm within 30 days of employment. Before engaging in  
8 any private protective services activity, the individual shall receive any required training  
9 prescribed by the Board."

10 **SECTION 11.** G.S. 74C-14 is repealed.

11 **SECTION 12.** Chapter 74C of the General Statutes is amended by adding a new  
12 section to read:

13 **"§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or**  
14 **corporation.**

15 In the event a company, firm, or corporation licensed under this Chapter transfers  
16 ownership, control, or a majority of assets to another person, firm, association, or corporation,  
17 the person, firm, association, or corporation acquiring control or ownership shall have the  
18 following responsibilities:

19 (1) Notify the Director of the acquisition or change of ownership or control by  
20 registered mail within five business days from the date of the transaction.

21 (2) Describe the transaction that has occurred by providing the following  
22 information:

23 a. The name and address of the registered agent of the party acquiring  
24 control or ownership or otherwise succeeding the licensee.

25 b. The name and address of the acquiring party, including each  
26 individual owner of any interest in the party or, if the party is a  
27 corporation, the name and address of each officer of the corporation  
28 and member of the board of directors.

29 c. Any change in location of any branch office.

30 d. Any change in insurance or bonding limits.

31 (3) Return to the Director all licenses held by the licensee within five business  
32 days from the date of the transaction if the acquiring party does not continue  
33 to operate the business under its previous name and license.

34 (4) Provide to the Director within 60 calendar days from the date of the  
35 transaction the following:

36 a. A list of all registrants or licensees affected by the transaction.

37 b. Written confirmation of completion of any changes necessary for the  
38 acquiring party to comply with the requirements of this Chapter or  
39 any applicable rules adopted by the Board on a form approved by the  
40 Director."

41 **SECTION 13.** The title of Article 2 of Chapter 74C of the General Statutes and  
42 G.S. 74C-30 read as rewritten:

43 "Article 2.

44 "Private Protective Services ~~Recovery~~ Education Fund.

45 **"§ 74C-30. Private Protective Services ~~Recovery~~ Education Fund created; payments to**  
46 **Fund; management; use of funds.**

47 (a) There is hereby created and established a special fund to be known as the "Private  
48 Protective Services ~~Recovery~~ Education Fund" (hereinafter Fund) which shall be set aside and  
49 maintained in the Office of the State Treasurer. ~~Said~~ The Fund shall be used in the manner  
50 provided in this Article for the ~~payment of claims where the aggrieved person has suffered a~~



1 ~~direct monetary loss by reason of certain acts committed by any person licensed under this~~  
2 ~~Chapter.~~ education of licensees and registrants as deemed appropriate by the Board.

3 (b) ~~Nothing contained in this Article shall limit the authority of the Board to take~~  
4 ~~disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in~~  
5 ~~full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any~~  
6 ~~other disciplinary proceeding brought under this Chapter.~~

7 (c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge  
8 the following fees which shall be deposited into the Fund:

9 (1) Repealed by Session Laws 2007-511, s. 10.

10 (2) The Board shall charge each new applicant for a licensee or trainee permit  
11 fifty dollars (\$50.00), provided that for purposes of this Article a new  
12 applicant is hereby defined as an applicant who did not possess a license or  
13 trainee permit on July 1, 1983; and

14 (3) The Board is authorized to charge each licensee and trainee an additional  
15 amount, not to exceed fifty dollars (\$50.00), on July 1 of any year in which  
16 the balance of the Fund is less than twenty-five thousand dollars (\$25,000),  
17 provided that any amount so assessed will be only so much as is needed to  
18 raise the level of the Fund to twenty-five thousand dollars (\$25,000).

19 (d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner  
20 provided by law, ~~provided that sufficient liquidity shall be maintained to satisfy claims~~  
21 ~~authorized by the Board. The proceeds from the investments shall be deposited to the credit of~~  
22 ~~the Fund.~~ law. The Board ~~Board~~, in its discretion, may use ~~any and all of the proceeds from the~~  
23 ~~investments or funds that exceed twenty five thousand dollars (\$25,000)~~ the Fund for any of  
24 the following purposes:

25 (1) To advance education and research in the private protective services field for  
26 the benefit of those licensed or registered under the provisions of this  
27 Chapter and for the improvement of the industry.

28 (2) To underwrite educational seminars, training centers and other educational  
29 projects for the use and benefit generally of ~~licensees~~ licensees, registrants,  
30 and trainees.

31 (3) To sponsor, contract for and to underwrite any and all additional educational  
32 training and research projects of a similar nature having to do with the  
33 advancement of the private protective services field in North Carolina. The  
34 Board shall have the authority to sponsor courses given by private  
35 individuals, associations, or corporations. However, the Board shall only  
36 grant funds as necessary to offset the actual cost of the educational course.  
37 Any individual, association, or corporation receiving grant money from the  
38 Board shall make the course available to the industry at large. Any  
39 individual, association, or corporation receiving grant money from the Board  
40 and advertising the course to the industry is required to include in its  
41 advertising the following statement: "The course is being given in whole or  
42 in part by a grant from the Private Protective Services Board."

43 (e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand  
44 dollars (\$50,000) may be converted to offset the operating expenses of the Board. However, in  
45 converting the funds, the Board shall make findings of fact by a written order or resolution  
46 supporting the need to make the conversion."

47 **SECTION 14.** G.S. 74C-31, 74C-32, and 74C-33 are repealed.

48 **SECTION 15.** G.S. 74D-2 reads as rewritten:

49 "**§ 74D-2. Licenses required.** License requirements.

50 (a) License Required. – No person, firm, association, corporation, or department or  
51 division of a firm, association or corporation, shall engage in or hold itself out as engaging in

1 an alarm systems business without first being licensed in accordance with this Chapter. For  
2 purposes of this Chapter an "alarm systems business" is defined as any person, firm, association  
3 or corporation which sells or attempts to sell by engaging in a personal solicitation at a  
4 residence or business when combined with personal inspection of the interior of the residence  
5 or business to advise on specific types and specific locations of alarm system devices, installs,  
6 services, monitors or responds to electrical, electronic or mechanical alarm signal devices,  
7 burglar alarms, television cameras or still cameras used to detect burglary, breaking or entering,  
8 intrusion, shoplifting, pilferage, or theft. A department or division of a firm, association or  
9 corporation may be separately licensed under this Chapter if the distinct department or division,  
10 as opposed to the firm, association or corporation as a whole, engages in an alarm systems  
11 business. Such a department or division shall ensure strict confidentiality of private security  
12 information, and the private security information of the department or division must, at a  
13 minimum, be physically separated from other premises of the firm, association or corporation.

14 (b) Repealed by Session Laws 1989, c. 730, s. 1.

15 (c) Qualifying Agent. – A business entity that engages in the alarm systems business is  
16 subject to all of the requirements listed in this subsection with respect to a qualifying agent. For  
17 purposes of this Chapter, a 'qualifying agent' is an individual in a management position who is  
18 licensed under this Chapter and whose name and address have been registered with the Board.  
19 The requirements are:

20 (1) ~~No business entity shall do business under this Chapter unless the business~~  
21 ~~entity has in its~~ The business entity shall employ a designated resident  
22 qualifying agent who meets the requirements for a license issued under and  
23 who is, in fact, licensed under the provisions of this Chapter, unless  
24 otherwise approved by the Board. Provided, however, that this approval  
25 shall not be given unless the business entity has and continuously maintains  
26 in this State a registered agent who shall be an individual resident in this  
27 State. Service upon the registered agent appointed by the business entity of  
28 any process, notice or demand required by or permitted by law to be served  
29 upon the business entity by the Alarm Systems Licensing Board shall be  
30 binding upon the business entity and the licensee. Nothing herein contained  
31 shall limit or affect the right to serve any process, notice or demand required  
32 or permitted by law to be served upon a business entity in any other manner  
33 or hereafter permitted by law.

34 (2) ~~For the purposes of this Chapter, a "qualifying agent" means an individual in~~  
35 ~~a management position who is licensed under this Chapter and whose name~~  
36 ~~and address have been registered with the board.~~

37 (3) In the event that the qualifying agent upon whom the business entity relies in  
38 order to do business ceases to perform his duties as qualifying agent, the  
39 business entity shall notify the board in writing within 10 working days. The  
40 business entity must obtain a substitute qualifying agent within 30 days after  
41 the original qualifying agent ceases to serve as qualifying agent unless the  
42 board, in its discretion, and upon written request of the business entity,  
43 extends this period for good cause for a period of time not to exceed three  
44 months.

45 (4) The license certificate shall list the name of at least one designated  
46 qualifying agent. No licensee shall serve as the qualifying agent for more  
47 than one business entity without the prior approval of the Board.

48 (5) ~~The Department of Justice may provide a criminal record check to the Alarm~~  
49 ~~Systems Licensing Board for a person who has applied for a new or renewal~~  
50 ~~license, registration, certification, or permit through the Alarm Systems~~  
51 ~~Licensing Board. The Board shall provide to the Department of Justice,~~

1 along with the request, the fingerprints of the applicant, any additional  
2 information required by the Department of Justice, and a form signed by the  
3 applicant consenting to the check of the criminal record and to the use of the  
4 fingerprints and other identifying information required by the State or  
5 national repositories. The applicant's fingerprints shall be forwarded to the  
6 State Bureau of Investigation for a search of the State's criminal history  
7 record file, and the State Bureau of Investigation shall forward a set of the  
8 fingerprints to the Federal Bureau of Investigation for a national criminal  
9 history check. The Board shall keep all information pursuant to this  
10 subdivision privileged, in accordance with applicable State law and federal  
11 guidelines, and the information shall be confidential and shall not be a public  
12 record under Chapter 132 of the General Statutes.

13 The Department of Justice may charge each applicant a fee for  
14 conducting the checks of criminal history records authorized by this  
15 subdivision.

16 (d) Criminal Record Check. – An applicant must meet all of the following requirements  
17 and qualifications determined by a background investigation conducted by the Board in  
18 accordance with G.S. 74D-2.1 and upon receipt of an application: Upon receipt of an  
19 application, the board shall cause a background investigation to be made during which the  
20 applicant shall be required to show that he meets all the following requirements and  
21 qualifications prerequisite to obtaining a license:

- 22 (1) ~~That the~~ The applicant is at least 18 years of ~~age;~~ age.  
23 (2) ~~That the~~ The applicant is of good moral character and temperate habits. The  
24 following shall be prima facie evidence that the applicant does not have  
25 good moral character or temperate habits: conviction by any local, State,  
26 federal, or military court of any crime involving the illegal use, carrying, or  
27 possession of a firearm; conviction of any crime involving the illegal use,  
28 possession, sale, manufacture, distribution or transportation of a controlled  
29 substance, drug, narcotic, or alcoholic beverages; conviction of a crime  
30 involving felonious assault or an act of violence; conviction of a crime  
31 involving unlawful breaking or entering, burglary, larceny, or of any offense  
32 involving moral turpitude; or a history of addiction to alcohol or a narcotic  
33 drug; provided that, for purposes of this subsection, "conviction" means and  
34 includes the entry of a plea of guilty, plea of no contest, or a verdict rendered  
35 in open court by a judge or ~~jury;~~ jury.  
36 (3) ~~That the~~ The applicant has the necessary training, qualifications and  
37 experience to be licensed.

38 (e) Examination. – The board may require the applicant to demonstrate his  
39 qualifications by oral or written examination, or both.

40 (f) Confidentiality. – Except for purposes of administering the provisions of this section  
41 and for law enforcement purposes, the home address or telephone number of an applicant,  
42 licensee, or the spouse, children, or parents of an applicant or licensee is confidential under  
43 G.S. 132-1.2, and the Board shall not disclose this information unless the applicant or licensee  
44 consents to ~~such~~ the disclosure. The provisions of this subsection shall not apply when a  
45 licensee's home address or telephone number is also ~~his or her~~ the licensee's business address  
46 and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor."

47 **SECTION 16.** Article 1 of Chapter 74D of the General Statutes is amended by  
48 adding a new statutory section to read:

49 "**§ 74D-2.1. Criminal background checks.**

50 (a) Authorization. – Upon receipt of an application for a license or registration, the  
51 Board shall conduct a background investigation to determine whether the applicant meets the

1 requirements for a license or registration as set out in G.S. 74D-2(d). The Department of Justice  
2 may provide a criminal record check to the Board for a person who has applied for a new or  
3 renewal license or registration through the Board. The Board shall provide to the Department of  
4 Justice, along with the request, the fingerprints of a new applicant, and the Department of  
5 Justice shall provide a criminal record check based upon the applicant's fingerprints. The Board  
6 may request a criminal record check from the Department of Justice for a renewal applicant  
7 based upon the applicant's fingerprints in accordance with policy adopted by the Board. The  
8 Board shall provide any additional information required by the Department of Justice and a  
9 form signed by the applicant consenting to the check of the criminal record and to the use of the  
10 fingerprints and other identifying information required by the State or national repositories. The  
11 applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of  
12 the State's criminal history record file, and the State Bureau of Investigation shall forward a set  
13 of the fingerprints to the Federal Bureau of Investigation for a national criminal history check.  
14 The Department of Justice may charge each applicant a fee for conducting the checks of  
15 criminal history records authorized by this subsection.

16 The Board may require a new or renewal applicant to obtain a criminal record report from  
17 one or more reporting services designated by the Board to provide criminal record reports.  
18 Applicants are required to pay the designated reporting service for the cost of these reports.

19 (b) Confidentiality. – The Board shall keep all information obtained pursuant to this  
20 section confidential in accordance with applicable State law and federal guidelines, and the  
21 information shall not be a public record under Chapter 132 of the General Statutes."

22 **SECTION 17.** The Joint Legislative Commission on Governmental Operations  
23 shall study the regulation and impacts of digital forensics and report to the 2009 General  
24 Assembly when it reconvenes in 2010.

25 **SECTION 18.** This act becomes effective October 1, 2009.