

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1073
Commerce Committee Substitute Adopted 5/19/09
Finance Committee Substitute Adopted 6/4/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1073-PCS55461-SUF-71

Short Title: Amend Alarm Systems Licensing Act.

(Public)

Sponsors:

Referred to:

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE NORTH CAROLINA ALARM SYSTEMS LICENSING ACT
3 AND AUTHORIZING THE NORTH CAROLINA ALARM SYSTEMS LICENSING
4 BOARD TO ESTABLISH A LATE REGISTRATION FEE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 74D-2 reads as rewritten:

7 "§ 74D-2. Licenses required.

8 (a) No person, firm, association, corporation, or department or division of a firm,
9 association or corporation, shall engage in or hold itself out as engaging in an alarm systems
10 business without first being licensed in accordance with this Chapter. For purposes of this
11 Chapter an "alarm systems business" is defined as any person, firm, association or corporation
12 ~~which that~~ does any of the following:

13 (1) ~~sells~~ Sells or attempts to sell an alarm system device by engaging in a
14 personal solicitation at a residence or business ~~when combined with personal~~
15 ~~inspection of the interior of the residence or business to advise~~ advise,
16 design, or consult on specific types and specific locations of alarm system
17 ~~devices, devices.~~

18 (2) ~~installs, Installs,~~ services, ~~monitors~~ monitors, or responds to electrical,
19 electronic or mechanical alarm signal devices, burglar alarms, ~~television~~
20 ~~cameras or still cameras~~ monitored access control or cameras used to detect
21 burglary, breaking or entering, intrusion, shoplifting, pilferage, ~~or theft.~~ theft,
22 or other unauthorized or illegal activity. This provision shall not apply to a
23 locking device that records entry and exit data and does not transmit the data
24 in real time to an on-site or off-site monitoring location, provided the
25 installer is duly licensed by the North Carolina Locksmith Licensing Board.

26 A department or division of a firm, association or corporation may be separately licensed under
27 this Chapter if the distinct department or division, as opposed to the firm, association or
28 corporation as a whole, engages in an alarm systems business. Such a department or division
29 shall ensure strict confidentiality of private security information, and the private security
30 information of the department or division must, at a minimum, be physically separated from
31 other premises of the firm, association or corporation.

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



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- 1 (c) (1) No business entity shall do business under this Chapter unless the business
2 entity has in its employ a designated resident qualifying agent who meets the
3 requirements for a license issued under and who is, in fact, licensed under
4 the provisions of this Chapter, unless otherwise approved by the Board.
5 Provided, however, that this approval shall not be given unless the business
6 entity has and continuously maintains in this State a registered agent who
7 shall be an individual resident in this State. Service upon the registered agent
8 appointed by the business entity of any process, notice or demand required
9 by or permitted by law to be served upon the business entity by the Alarm
10 Systems Licensing Board shall be binding upon the business entity and the
11 licensee. Nothing herein contained shall limit or affect the right to serve any
12 process, notice or demand required or permitted by law to be served upon a
13 business entity in any other manner or hereafter permitted by law.
- 14 (2) For the purposes of this Chapter, a "qualifying agent" means an individual in
15 a management position who is licensed under this Chapter and whose name
16 and address have been registered with the board.
- 17 (3) In the event that the qualifying agent upon whom the business entity relies in
18 order to do business ceases to perform his duties as qualifying agent, the
19 business entity shall notify the board in writing within 10 working days. The
20 business entity must obtain a substitute qualifying agent within ~~30~~90 days
21 after the original qualifying agent ceases to serve as qualifying agent ~~unless~~
22 ~~the board, in its discretion, and upon written request of the business entity,~~
23 ~~extends this period for good cause for a period of time not to exceed three~~
24 ~~months-agent.~~
- 25 (4) The license certificate shall list the name of ~~at least one designated~~the
26 qualifying agent. No licensee shall serve as the qualifying agent for more
27 than one business entity without the prior approval of the Board.
- 28 (5) The Department of Justice may provide a criminal record check to the Alarm
29 Systems Licensing Board for a person who has applied for a new or renewal
30 license, registration, certification, or permit through the Alarm Systems
31 Licensing Board. The Board shall provide to the Department of Justice,
32 along with the request, the fingerprints of ~~the applicant, a new applicant, and~~
33 the Department of Justice shall provide a criminal record check based upon
34 the applicant's fingerprints. The Board may request a criminal record check
35 from the Department of Justice for a renewal applicant based upon the
36 applicant's fingerprints in accordance with policy adopted by the Board. The
37 Board shall provide any additional information required by the Department
38 of Justice, and a form signed by the applicant consenting to the check of the
39 criminal record and to the use of the fingerprints and other identifying
40 information required by the State or national repositories. The applicant's
41 fingerprints shall be forwarded to the State Bureau of Investigation for a
42 search of the State's criminal history record file, and the State Bureau of
43 Investigation shall forward a set of the fingerprints to the Federal Bureau of
44 Investigation for a national criminal history check. The Board shall keep all
45 information pursuant to this subdivision privileged, in accordance with
46 applicable State law and federal guidelines, and the information shall be
47 confidential and shall not be a public record under Chapter 132 of the
48 General Statutes.

49 The Department of Justice may charge each applicant a fee for
50 conducting the checks of criminal history records authorized by this
51 subdivision.

1 (d) Upon receipt of an application, the board shall cause a background investigation to
2 be made during which the applicant shall be required to show that he meets all the following
3 requirements and qualifications prerequisite to obtaining a license:

4 (1) That the applicant is at least 18 years of age;

5 (2) That the applicant is of good moral character and temperate habits. The
6 following shall be prima facie evidence that the applicant does not have
7 good moral character or temperate habits: conviction by any local, State,
8 federal, or military court of any crime involving the illegal use, carrying, or
9 possession of a firearm; conviction of any crime involving the illegal use,
10 possession, sale, manufacture, distribution or transportation of a controlled
11 substance, drug, narcotic, or alcoholic beverages; conviction of a crime
12 involving felonious assault or an act of violence; conviction of a crime
13 involving unlawful breaking or entering, burglary, larceny, or of any offense
14 involving moral turpitude; or a history of addiction to alcohol or a narcotic
15 drug; provided that, for purposes of this subsection, "conviction" means and
16 includes the entry of a plea of guilty, plea of no contest, or a verdict rendered
17 in open court by a judge or jury;

18 (3) That the applicant has the necessary training, qualifications and experience
19 to be licensed.

20 (e) The ~~board~~ Board may require the applicant to demonstrate ~~his~~ the applicant's
21 qualifications by ~~oral or written examination, or both examination.~~

22 (f) Except for purposes of administering the provisions of this section and for law
23 enforcement purposes, the home address or telephone number of an applicant, licensee, or the
24 spouse, children, or parents of an applicant or licensee is confidential under G.S. 132-1.2, and
25 the Board shall not disclose this information unless the applicant or licensee consents to such
26 disclosure. The provisions of this subsection shall not apply when a licensee's home address or
27 telephone number is also his or her business address and telephone number. Violation of this
28 subsection shall constitute a Class 3 misdemeanor."

29 **SECTION 2.** G.S. 74D-3(1) reads as rewritten:

30 "The provisions of this Chapter shall not apply to:

31 (1) A person, firm, association or corporation which sells or manufactures alarm
32 systems, unless such persons, firm, association or corporation makes
33 ~~personal inspections of interiors of residences or businesses solicitations at a~~
34 ~~residence or business to advise~~ advise, design, or consult on specific types
35 and specific locations of alarm system devices, installs, services, monitors or
36 responds to alarm systems at or from a protected premises or a premises to
37 be protected and thereby obtains knowledge of specific application or
38 location of the alarm ~~system;~~system. A person licensed under this Chapter
39 may hire a consultant to troubleshoot a location or installation for a period of
40 time not to exceed 48 hours in a one-month period if the licensee submits a
41 report to the Board within 30 days from the date of the consultation
42 designating the consultant as a temporary consultant;".

43 **SECTION 3.** G.S. 74D-5.2 reads as rewritten:

44 "**§ 74D-5.2. Investigative powers of the Attorney General.**

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

1 **SECTION 4.** G.S. 74D-7 reads as rewritten:

2 "**§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices; fees.**

3 (a) The license when issued shall be in such form as may be determined by the Board
4 and shall state:

5 (1) The name of the licensee;

6 (2) The name under which the licensee is to operate; and

7 (3) The number and expiration date of the license.

8 (b) The license shall be issued for a term of two years. Each license must be renewed
9 before expiration of the term of the license. Following issuance, the license shall at all times be
10 posted in a conspicuous place in the principal place of business of the licensee. A license issued
11 under this Chapter is not assignable.

12 (c) No licensee shall engage in any business regulated by this Chapter under a name
13 other than the licensee name or names which appear on the certificate issued by the Board.

14 (d) Any branch office of an alarm systems business shall obtain a branch office
15 certificate. A separate certificate stating the location and licensed qualifying agent shall be
16 posted at all times in a conspicuous place in each branch office. Every business covered under
17 the provisions of this Chapter shall file in writing with the Board the addresses of each of its
18 branch offices. All licensees of a branch office shall notify the Board in ~~writing, within 10~~
19 ~~working days after~~ writing before the establishment, closing, or changing of the location of any
20 branch office. A licensed qualifying agent may be responsible for more than one branch office
21 of an alarm systems business with the prior approval of the Board. Temporary approval may be
22 granted by the Director, upon application of the qualifying agent, for a period of time not to
23 exceed 10 working days after the adjournment of the next regularly scheduled meeting of the
24 Board unless the Board determines that the application should be denied.

25 (e) The Board may charge fees as follows:

26 (1) A nonrefundable initial license application fee in an amount not to exceed
27 one hundred fifty dollars (\$150.00).

28 (2) A new or renewal license fee in an amount not to exceed five hundred
29 dollars (\$500.00).

30 (3) A late license renewal fee to be paid in addition to the renewal fee due in an
31 amount not to exceed one hundred dollars (\$100.00), if the license has not
32 been renewed on or before the expiration date of the license.

33 (4) A new or renewal registration fee in an amount not to exceed fifty dollars
34 (\$50.00) plus any fees charged to the board for background checks by the
35 State Bureau of Investigation.

36 (5) A fee for reregistration of an employee who changes employment to another
37 licensee, not to exceed ten dollars (\$10.00).

38 (6) A branch office certificate fee not to exceed one hundred fifty dollars
39 (\$150.00).

40 (7) A fee not to exceed fifty dollars (\$50.00) for each reconsideration of a
41 license or registration permit that has been filed or returned to the applicant
42 for correctable errors.

43 (8) A late registration fee, to be paid in addition to the registration renewal fee,
44 not to exceed twenty dollars (\$20.00) for an application submitted no more
45 than 30 days after the expiration of the registration permit. A registration
46 application submitted more than 30 days after the registration has expired
47 shall be registered as a new applicant.

48 All fees collected pursuant to this section shall be expended, under the direction of the
49 Board, for the purpose of defraying the expense of administering this Chapter."

50 **SECTION 5.** G.S. 74D-8(a) reads as rewritten:

- 1 "(a) (1) All licensees of an alarm systems business shall register with the Board
2 within ~~20-30~~ days after the employment begins, all of the licensee's
3 employees that are within the State, unless in the discretion of the Director,
4 the time period is extended for good cause. To register an employee, a
5 licensee shall submit to the Board as to the employee: set(s) of classifiable
6 fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of
7 acceptable quality for identification; and statements of any criminal records
8 ~~obtained from the appropriate authority in each area where the employee has~~
9 ~~resided within the immediately preceding 48 months as deemed appropriate~~
10 by the Board.
11 (2) Except during the period allowed for registration in subdivision (a)(1) of this
12 section, no alarm systems business may employ any employee unless the
13 employee's registration has been approved by the Board as set forth in this
14 section."

15 **SECTION 6.** G.S. 74D-10(a) reads as rewritten:

16 "(a) The Board may, after notice and an opportunity for hearing, suspend or revoke a
17 license or registration issued under this Chapter if it is determined that the licensee or registrant
18 has:

- 19 (1) Made any false statement or given any false information in connection with
20 any application for a license or registration, or for the renewal or
21 reinstatement of a license or ~~registration;~~registration.
22 (2) Violated any provision of this ~~Chapter;~~Chapter.
23 (3) Violated any rule promulgated by the Board pursuant to the authority
24 contained in this ~~Chapter;~~Chapter.
25 (4) Been convicted of any crime involving moral turpitude or any other crime
26 involving violence or the illegal use, carrying, or possession of a dangerous
27 ~~weapon;~~weapon.
28 (5) Failed to correct business practices or procedures that have resulted in a
29 prior reprimand by the ~~Board;~~Board.
30 (6) Impersonated or permitted or aided and abetted any other person to
31 impersonate a law-enforcement officer of the United States, this State, or
32 any of its political ~~subdivisions;~~subdivisions.
33 (7) Engaged in or permitted any employee to engage in any alarm systems
34 business when not lawfully in possession of a valid license issued under the
35 provisions of this ~~Chapter;~~Chapter.
36 (8) Committed an unlawful breaking or entering, assault, battery, or
37 ~~kidnapping;~~kidnapping.
38 (9) Committed any other act which is a ground for the denial of an application
39 for a license or registration under this ~~Chapter;~~Chapter.
40 (10) ~~Failure~~ Failed to maintain the certificate of liability required by this
41 ~~Chapter;~~Chapter.
42 (11) Any judgment of incompetency by a court having jurisdiction under Chapter
43 35A or former Chapter 35 of the General Statutes or commitment to a
44 mental health facility for treatment of mental illness, as defined in
45 G.S. 122C-3(21), by a court having jurisdiction under Article 5 of Chapter
46 122C of the General ~~Statutes;~~Statutes.
47 (12) Accepted payment in advance for services not performed within a reasonable
48 time ~~period;~~period.
49 (13) A lack of temperate habits or ~~of~~ good moral character. The acts that are
50 prima facie evidence of lack of temperate habits or ~~of~~ good moral character

1 under G.S. 74D-6(3) are prima facie evidence of the same under this
2 subdivision.

3 (14) Been previously denied a license or registration under this Chapter or
4 previously had a license or registration revoked for cause.

5 (15) Engaged in the alarm systems profession under a name other than the name
6 under which the license was obtained under the provisions of this Chapter.

7 (16) Advertised or solicited business using a name other than that in which a
8 license was issued.

9 (17) Failed or refused to reasonably cooperate with the Board or its agents during
10 an investigation of any complaint, allegation, suspicion of wrongdoing, or
11 violation of this Chapter.

12 (18) Failed to properly make any disclosure or provide documents or information
13 required by this Chapter or by the Board.

14 (19) Engaged in conduct that constitutes dereliction of duty or otherwise
15 deceives, defrauds, or harms the public in the course of professional
16 activities or services.

17 (20) Demonstrated a lack of financial responsibility."

18 **SECTION 7.** G.S. 74D-11 is amended by adding a new subsection to read:

19 "(f) The sale, installation, or service of an alarm system by an unlicensed or unregistered
20 person shall constitute a threat to the public safety, and any contract for the sale, installation, or
21 service of an alarm system shall be deemed void and unenforceable."

22 **SECTION 8.** Article 1 of Chapter 74D of the General Statutes is amended by
23 adding the following new section to read:

24 **"§ 74D-14. Proof of licensure to maintain or commence action.**

25 An alarm systems business may not maintain any action in any court of the State for the
26 collection of compensation for performing an act for which a license or registration is required
27 by this Chapter without alleging and proving that the alarm systems business is appropriately
28 licensed and the employee or agent of the alarm systems business is appropriately registered
29 upon entering into a contract with the consumer. An alarm systems installation, maintenance, or
30 monitoring contract entered into with a consumer shall be void if the consumer confirms
31 through records maintained by the Board that the alarm systems business is not properly
32 licensed or the consumer establishes through records maintained by the Board that the person
33 enticing the consumer to enter into the contract is not properly registered by the Board. The
34 sale, installation, or service of an alarm system by an unlicensed or unregistered employee shall
35 be deemed an unfair and deceptive trade practice and shall be actionable under Chapter 75 of
36 the General Statutes."

37 **SECTION 9.** The title of Article 2 of Chapter 74D of the General Statutes reads as
38 rewritten:

39 "Article 2.

40 Alarm Systems ~~Recovery~~-Education Fund."

41 **SECTION 10.** G.S. 74D-30 reads as rewritten:

42 **"§ 74D-30. Alarm Systems ~~Recovery~~-Education Fund created; payment to Fund;**
43 **management; use of funds.**

44 (a) There is hereby created and established a special fund to be known as the "Alarm
45 Systems ~~Recovery~~-Education Fund" (hereinafter Fund) which shall be set aside and maintained
46 in the office of the State Treasurer. ~~Said~~-The Fund shall be used in the manner provided in this
47 Article for the ~~payment of claims where the aggrieved person has suffered a direct monetary~~
48 ~~loss by reason of certain acts committed by any person licensed under this Chapter.~~education of
49 licensees and registrants.

50 (b) ~~Nothing contained in this Article shall limit the authority of the Board to take~~
51 ~~disciplinary action against any licensee under this Chapter, nor shall the repayment in full of all~~

1 obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary
2 proceeding brought under this Chapter.

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

5 (1) On July 1, 1985, the Board shall charge every licensee on that date a fee of
6 fifty dollars (\$50.00);

7 (2) The Board shall charge each new applicant for a license fifty dollars
8 (\$50.00), provided that for purposes of this Article a new applicant is hereby
9 defined as an applicant who did not possess a license on July 1, 1985; and

10 (3) The Board is authorized to charge each licensee an additional amount, not to
11 exceed fifty dollars (\$50.00), on July 1 of any year in which the balance of
12 the Fund is less than ~~one hundred thousand dollars (\$100,000)~~twenty-five
13 thousand dollars (\$25,000).

14 (d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner
15 provided by law, ~~provided that sufficient liquidity shall be maintained to satisfy claims~~
16 ~~authorized by the Board. The proceeds from such investments shall be deposited to the credit of~~
17 ~~the Fund.~~law. The Board in its discretion, may use ~~any and all of the proceeds from such~~
18 ~~investments~~the Fund for any of the following purposes:

19 (1) To advance education and research in the alarm systems field for the benefit
20 of those licensed under the provisions of this Chapter and for the
21 improvement of the ~~industry~~industry.

22 (2) To underwrite educational seminars, training centers and other educational
23 projects for the use and benefit generally of licensees, and

24 (3) To sponsor, contract for and to underwrite any and all additional educational
25 training and research projects of a similar nature having to do with the
26 advancement of the alarm systems field in North Carolina."

27 **SECTION 11.** G.S. 74D-31, 74D-32, and 74D-33 are repealed.

28 **SECTION 12.** This act becomes effective October 1, 2009, and applies to licenses
29 or registrations issued or renewed on or after that date.