

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 20  
PROPOSED COMMITTEE SUBSTITUTE S20-PCS35075-LE-2

Short Title: Amend Law Regulating Proprietary Schools.

(Public)

Sponsors:

Referred to:

February 2, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW REGULATING PROPRIETARY SCHOOLS.  
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 115D-87 reads as rewritten:

5 "§ 115D-87. Definitions.

6 ~~As used in this Article:~~ The following definitions apply in this Article:

- 7 (1) ~~"Correspondence school" means an educational institution privately owned~~  
8 ~~and operated by an owner, partnership or corporation conducted for the~~  
9 ~~purpose of providing, by correspondence, for a consideration, profit, or~~  
10 ~~tuition, systematic instruction in any field or teaches or instructs in any~~  
11 ~~subject area through the medium of correspondence between the student and~~  
12 ~~the school, usually through printed or typewritten matter sent by the school~~  
13 ~~and written responses by the student.~~  
14 (2) ~~"Persons" means any Person. – Any individual, association, partnership or~~  
15 ~~corporation, and includes any director, receiver, referee, trustee, executor, or~~  
16 ~~administrator as well as a natural person.~~  
17 (3) ~~"Proprietary business school" or "business school" means an educational~~  
18 ~~institution that (i) is privately owned and operated by an owner, partnership~~  
19 ~~or corporation, and (ii) offers business and office related courses for which~~  
20 ~~tuition is charged, in business or office related subjects or subjects of general~~  
21 ~~education when they contribute value to the objective of the course of study.~~  
22 ~~If a school offers classes in more than one county, the school's operations in~~  
23 ~~each such county shall constitute a separate school, as defined in this~~  
24 ~~subdivision.~~  
25 (4) ~~"Proprietary trade school" or "trade school" means an educational institution~~  
26 ~~that (i) is privately owned and operated by an owner, partnership or~~  
27 ~~corporation, and (ii) offers classes conducted for the purpose of teaching, for~~  
28 ~~profit or for a tuition charge, any trade, mechanical or industrial occupation~~  
29 ~~or teaching any or several of the subjects needed to train youths or adults in~~  
30 ~~the skills, knowledge and subjects, related industrial information, and job~~  
31 ~~judgment, necessary for success in one or more skilled trades, industrial~~  
32 ~~occupations or related occupations. If a school offers classes in more than~~  
33 ~~one county, the school's operations in each such county shall constitute a~~  
34 ~~separate school, as defined in this subdivision.~~



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(5) ~~"Proprietary technical school", "technical school", "proprietary technical institute", or "technical institute" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any technical occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge and subjects, related information, and job judgment, necessary for success in one or more technical or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~

(5) Proprietary school. – An educational institution having a physical presence within North Carolina that meets all of the following conditions:

- a. It is privately owned by a sole proprietorship, partnership, limited liability company, or corporation.
- b. It is established as a business entity or as a nonprofit charitable organization.
- c. It offers instruction to individuals who (i) have completed their elementary and secondary education or (ii) are beyond the age of compulsory secondary school attendance and have demonstrated an ability to benefit from that instruction for the attainment of educational objectives, vocational objectives, or both.
- d. It charges tuition or receives any consideration from a student for any portion of the instruction in any form, including written or audiovisual material.
- e. It educates, trains, or claims or offers to educate or train students in a program leading toward (i) examinations for licensing in a profession or vocation, (ii) employment at a beginning or advanced level, or (iii) a postsecondary educational credential below the associate degree level.

The term includes a branch or extension of a private postsecondary educational institution of another state that is located in this State or that offers educational services or education at a physical location within this State. Delivery systems employed may include, but are not limited to, (i) correspondence, (ii) classrooms, (iii) hotels or other temporary dwelling units or areas, or (iv) electronic communications such as those used in distance education. Distance education is education, training courses, or programs delivered to a student who is geographically separate from the instructor.

If a school has physical locations and offers classes in more than one county, the school's operation in each county shall constitute a separate proprietary school, as defined in this section."

**SECTION 2.** G.S. 115D-88 reads as rewritten:

**"§ 115D-88. Exemptions.**

It is the purpose of this Article to include all private schools operated for profit: Provided, that the following schools shall be exempt from the provisions of this Article:

- (1) ~~Nonprofit schools conducted by bona fide eleemosynary or religious institutions.~~ (i) charities that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is charged to the student or (ii) religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student.

- 1 (3) Courses of instruction given by any fraternal society, civic club, or  
2 benevolent order, which courses are not operated for profit.
- 3 (4) Any school for which there is another legally existing licensing or approving  
4 board or agency in this State.
- 5 (4a) Classes or schools that are equipment-specific to purchasers, users, classes,  
6 or schools offering training or instruction to acquaint purchasers or users  
7 with equipment capabilities.
- 8 ~~(4b) Classes or schools that are taught or coached in homes or elsewhere to five  
9 or fewer students.~~
- 10 (4c) Classes or schools that the State Board, acting by and through the President  
11 of the Community College System, determines are avocational, recreational,  
12 self-improvement, or continuing education for already trained and  
13 occupationally qualified individuals.
- 14 (5) Any established university, professional, or liberal arts college, public or  
15 private school regulated or recognized pursuant to Chapter 115C of the  
16 General Statutes or by any other State Agency, or any State institution which  
17 has heretofore offered, or which may hereinafter offer one or more courses  
18 covered in this Article: Provided, that the tuition fees and charges, if any,  
19 made by such university, college, high school, or State institution shall be  
20 collected by their regular officers in accordance with the rules prescribed by  
21 the board of trustees or governing body of such university, college, high  
22 school, or State institution; but provisions of the Article shall apply to all  
23 ~~business schools, proprietary trade schools, proprietary technical schools, or~~  
24 ~~correspondence~~ proprietary schools as defined in this Article, and operated  
25 within the State of North Carolina as such institutions, except schools for  
26 which there are other legally existing licensing boards or agencies.
- 27 (6) Any institution that is exempt from licensure pursuant to G.S. 116-15(c)."

28 **SECTION 3.** G.S. 115D-89 reads as rewritten:

29 **"§ 115D-89. State Board of Community Colleges to administer Article; issuance of**  
30 **diplomas by schools; investigation and inspection; rules.**

31 (a) The State Board of Community Colleges, acting by and through the President of the  
32 Community College System, shall have authority to administer and enforce this Article and to  
33 grant and issue licenses to ~~proprietary business schools, proprietary trade schools, proprietary~~  
34 ~~technical schools, and correspondence schools,~~ proprietary schools whose sustained curriculum  
35 is of a grade equal to that prescribed for similar public schools and educational institutions of  
36 the State and which have met the standards set forth by the Board, including but not limited to  
37 course offerings, adequate facilities, financial stability, competent personnel and legitimate  
38 operating practices.

39 (b) Any such ~~proprietary business school, proprietary trade school, proprietary technical~~  
40 ~~school, or correspondence school,~~ proprietary school may by and with the approval of the State  
41 Board issue certificates and diplomas.

42 (c) The State Board, acting by and through the President of the Community College  
43 System, shall formulate the criteria and the standards evolved thereunder for the approval of  
44 such schools or educational institutions, provide for adequate investigations of all schools  
45 applying for a license and issue licenses to those applicants meeting the standards fixed by the  
46 Board, maintain a list of schools approved under the provisions of this Article which list shall  
47 be available for the information of the public, and provide for periodic inspection of all schools  
48 licensed under the provisions of this Article. Through periodic reports required of licensed  
49 schools and by inspections made by authorized representatives of the State Board of  
50 Community Colleges, the State Board of Community Colleges shall have general supervision  
51 over ~~business, trade, technical, and correspondence schools,~~ proprietary schools in the State, the

1 object of said supervision being to protect the health, safety and welfare of the public by having  
 2 the ~~licensed business, trade, technical, and correspondence schools~~ proprietary schools maintain  
 3 adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment,  
 4 sufficient and qualified teaching and administrative staff, and satisfactory programs of  
 5 operation and instruction, and to have the school carry out its advertised promises and contracts  
 6 made with its students and patrons. To this end the State Board of Community Colleges is  
 7 authorized to issue such rules not inconsistent with the provisions of this Article as are  
 8 necessary to administer the provisions of this Article.

9 The State Board, acting by and through the President of the Community College System,  
 10 may request any occupational licensing or approving board or agency in this State to adopt  
 11 rules requiring the approval of that board or agency for a course of study. Under these rules, the  
 12 board or agency shall pass on the adequacy of equipment, curricula, and instructional  
 13 personnel. The State Board of Community Colleges may deny approval to a course of study  
 14 that is not approved by such board or agency."

15 **SECTION 4.** G.S. 115D-90(a) reads as rewritten:

16 "(a) No person shall operate, conduct or maintain or offer to operate in this State a  
 17 ~~proprietary trade school, proprietary technical school, proprietary business school, or~~  
 18 ~~correspondence school,~~ proprietary school unless a license is first secured from the State Board  
 19 of Community Colleges granted in accordance with the provisions of this Article and the rules  
 20 adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall  
 21 constitute the formal acceptance by the Board of the educational programs and facilities of each  
 22 school approved."

23 **SECTION 5.** G.S. 115D-90(b)(7)i. reads as rewritten:

24 "(7) Such additional information as the State Board, acting by and through the  
 25 President of the Community College System, may deem necessary to enable  
 26 it to determine the adequacy of the program of instruction and matters  
 27 pertaining thereto. Each application shall be accompanied by a copy of the  
 28 current bulletin or catalog of the school which shall be in published form and  
 29 certified by an authorized official of the school as being current, true, and  
 30 correct in content and policy. The school bulletin shall contain the following  
 31 information:

32 ...

- 33 i. Policy and regulations of the institution relative to the refund of the  
 34 unused portion of tuition, fees and other charges in the event the  
 35 student does not enter the course or withdraws or is discontinued  
 36 therefrom. The policy and regulations shall provide for, at a  
 37 minimum, a full refund if a student withdraws before the first day of  
 38 class or the school cancels the class and a seventy-five percent (75%)  
 39 refund if the student withdraws within the first twenty-five percent  
 40 (25%) of the period of enrollment for which the student was  
 41 charged."

42 **SECTION 6.** G.S. 115D-91(b) reads as rewritten:

43 "(b) ~~Licenses—Unless a duration is otherwise prescribed by the State Board of~~  
 44 Community Colleges, licenses shall be renewable annually on July 1: ~~Provided, if all of the~~  
 45 following conditions are met:

- 46 (1) ~~an~~ An application for the renewal of the license has been filed in the form  
 47 and manner prescribed by the State Board, acting by and through the  
 48 President of the Community College ~~System, and System.~~  
 49 (2) ~~the~~ The renewal fee has been ~~paid:~~ paid.

1           (3) ~~Provided, further that the~~ The school and its courses, facilities, faculty and  
2           all other operations are found to meet the criteria set forth in the  
3           requirements for a school to secure an original license."

4           **SECTION 7.** G.S. 115D-96 reads as rewritten:

5   "**§ 115D-96. Operating school without license or bond made misdemeanor.**

6       Any person, or each member of any association of persons or each officer of any  
7       corporation who opens and conducts a ~~proprietary business school, a proprietary technical~~  
8       ~~school, a proprietary trade school, or a correspondence school,~~proprietary school without first  
9       having obtained the license herein required, and without first having executed the bond, paid  
10      the assessments into the Student Protection Fund, or both, as required by law, shall be guilty of  
11      a Class 3 misdemeanor, and each day the school continues to be open and operated shall  
12      constitute a separate offense."

13          **SECTION 8.** G.S. 115D-97 reads as rewritten:

14   "**§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null**  
15      **and void.**

16      All contracts entered into by ~~proprietary business, proprietary technical, proprietary trade,~~  
17      ~~or correspondence schools,~~proprietary schools with students or prospective students, and all  
18      promissory notes or other evidence of indebtedness taken in lieu of cash payments by such  
19      schools shall be null and void unless such schools are duly licensed as required by this Article."

20          **SECTION 9.** Section 5 of this act is effective when it becomes law and applies  
21      beginning with the 2011-2012 academic year. The remainder of this act becomes effective July  
22      1, 2011.