

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 685
Education/Higher Education Committee Substitute Adopted 5/11/11
PROPOSED COMMITTEE SUBSTITUTE S685-PCS55303-TD-37

Short Title: Modify Regulation of Proprietary Schools. (Public)

Sponsors:

Referred to:

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW RELATING TO THE REGULATION OF PROPRIETARY
3 SCHOOLS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 8 of Chapter 115D of the General Statutes is amended by
6 adding three new sections to read:

7 "§ 115D-89.1. State Board of Proprietary Schools.

8 (a) The State Board of Proprietary Schools is established in the North Carolina
9 Community Colleges System Office.

10 (b) The State Board of Proprietary Schools shall consist of seven members as follows:

11 (1) The President of the North Carolina Community College System or the
12 President's designee.

13 (2) Two members appointed by the Governor.

14 (3) Two members appointed by the General Assembly upon the
15 recommendation of the President Pro Tempore of the Senate, one of whom
16 shall be the owner or director of a proprietary school licensed in the State
17 with less than 100 total annual enrollment of students and one the owner or
18 director of a proprietary school or group of proprietary schools licensed in
19 the State with more than 750 total annual enrollment of students.

20 (4) Two members appointed by the General Assembly upon the
21 recommendation of the Speaker of the House of Representatives, one of
22 whom shall be the owner or director of a proprietary school licensed in the
23 State with between 100 and 750 total annual enrollment of students and one
24 the owner or director of a proprietary school licensed in the State.

25 The appointing authorities shall appoint members who have a demonstrated history of
26 experience in proprietary or public postsecondary education, an understanding of standards of
27 quality in postsecondary education, and leadership beyond a particular institution.

28 (c) No member of the General Assembly, spouse of a member of the General
29 Assembly, or officer or employee of the State shall be eligible to serve on the State Board of
30 Proprietary Schools as appointed members.

31 (d) One initial member appointed by each appointing authority shall be appointed for a
32 term ending December 30, 2014; the other member shall be appointed for a term ending



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1 December 30, 2017. Subsequent appointments shall be for six-year terms beginning on January
2 1. No person shall be appointed or elected to more than two consecutive six-year terms.

3 Vacancies in appointments made by the Governor shall be filled by the Governor.
4 Vacancies in the appointments made by the General Assembly shall be filled in accordance
5 with G.S. 120-122.

6 (e) The State Board of Proprietary Schools may declare vacant the office of a member
7 who does not attend three consecutive scheduled meetings without justifiable excuse. The
8 Chair of the State Board of Proprietary Schools shall notify the appropriate appointing
9 authority of any such vacancy.

10 (f) The State Board of Proprietary Schools shall elect from its membership a chair and
11 such other officers as it may deem necessary. Officers shall serve for a term of two years.

12 (g) The State Board of Proprietary Schools shall meet at stated times established by the
13 State Board of Proprietary Schools but not less frequently than four times a year. Special
14 meetings of the State Board of Proprietary Schools may be set at any regular meeting or may be
15 called by the chair. A majority of the qualified members of the State Board of Proprietary
16 Schools shall constitute a quorum for the transaction of business.

17 **"§ 115D-89.2. Office of Proprietary Schools; staff.**

18 The Office of Proprietary Schools shall be the principal administrative unit under the
19 direction of the State Board of Proprietary Schools. Unless specified in G.S. 115D-89.3, the
20 State Board of Proprietary Schools has authority to recommend for adoption and to administer
21 all policies, regulations, and standards which it deems necessary for the operation of the Office
22 of Proprietary Schools.

23 The State Board of Proprietary Schools shall hire an executive director of the Office of
24 Proprietary Schools, who shall serve as chief administrative officer of the Office of Proprietary
25 Schools, or contract with an outside consultant to serve as the executive director. The
26 compensation of this position shall be fixed by the State Board of Proprietary Schools from
27 funds provided by fees deposited in the Commercial Education Fund.

28 The State Board of Proprietary Schools may hire other employees as it deems necessary to
29 carry out the provisions of this Article. The compensation of the staff members hired by the
30 State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools
31 upon recommendation of the Executive Director of the Office of Proprietary Schools. The
32 Executive Director shall provide an annual projected operating budget to the State Board of
33 Proprietary Schools at a time each year designated by the State Board of Proprietary Schools.
34 The budget will be approved by the State Board of Proprietary Schools from funds provided by
35 fees deposited in the Commercial Education Fund.

36 **"§ 115D-89.3. State Board of Proprietary Schools and State Board of Community**
37 **Colleges; licensing authority and coordination of responsibilities to administer**
38 **Article.**

39 The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant
40 and issue licenses to proprietary schools by and through the State Board of Proprietary Schools,
41 shall receive written recommendation from the State Board of Proprietary Schools concerning
42 applicants for licenses and annual renewal applications for licenses. The State Board of
43 Proprietary Schools shall prepare and have approved by the State Board of Community
44 Colleges a certificate of license that reflects the recommendation of the State Board of
45 Proprietary Schools and approval by the State Board of Community Colleges. The State Board
46 of Community Colleges shall also receive from the State Board of Proprietary Schools and
47 have authority concerning proposed changes to the General Statutes and rules affecting
48 proprietary schools. The State Board of Community Colleges shall receive a written report
49 annually from the State Board of Proprietary Schools to include the number of schools
50 receiving initial licenses during the previous year, a list of currently licensed proprietary
51 schools, school closures during the previous year, including a complete report of actions

1 concerning any catastrophic closures, complaints received and resulting decisions or actions,
2 total fees received, and balances of the Commercial Education Fund and the Student Protection
3 Fund. The State Board of Proprietary Schools shall provide the State Board of Community
4 Colleges with any information requested."

5 **SECTION 2.** G.S. 115D-88(4c) reads as rewritten:

6 "(4c) Classes or schools that the State Board, acting by and through the ~~President~~
7 ~~of the Community College System, State Board of Proprietary Schools~~
8 determines are avocational, recreational, self-improvement, or continuing
9 education for already trained and occupationally qualified individuals."

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

11 **"§ 115D-89. State Board of Community Colleges to administer Article; issuance of**
12 **diplomas by schools; investigation and inspection; rules.**

13 (a) The State Board of Community Colleges, acting by and through the ~~President of the~~
14 ~~Community College System, State Board of Proprietary Schools,~~ shall have authority to
15 administer and enforce this Article and to grant and issue licenses to proprietary schools whose
16 sustained curriculum is of a grade equal to that prescribed for similar public schools and
17 educational institutions of the State and which have met the standards set forth by the Board,
18 including but not limited to course offerings, adequate facilities, financial stability, competent
19 personnel and legitimate operating practices.

20 (b) Any such proprietary school may by and with the approval of the State Board of
21 Community Colleges issue certificates and diplomas.

22 (c) The State Board, acting by and through the ~~President of the Community College~~
23 ~~System, State Board of Proprietary Schools,~~ shall formulate the criteria and the standards
24 evolved thereunder for the approval of such schools or educational institutions, provide for
25 adequate investigations of all schools applying for a license and issue licenses to those
26 applicants meeting the standards fixed by the State Board, maintain a list of schools approved
27 under the provisions of this Article which list shall be available for the information of the
28 public, and provide for periodic inspection of all schools licensed under the provisions of this
29 Article. Through periodic reports required of licensed schools and by inspections made by
30 authorized representatives of the State Board of Community Colleges, the State Board of
31 Community Colleges shall have general supervision over proprietary schools in the State, the
32 object of said supervision being to protect the health, safety and welfare of the public by having
33 the proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and
34 proper facilities and equipment, sufficient and qualified teaching and administrative staff, and
35 satisfactory programs of operation and instruction, and to have the school carry out its
36 advertised promises and contracts made with its students and patrons. To this end the State
37 Board of Community Colleges is authorized to issue such rules not inconsistent with the
38 provisions of this Article as are necessary to administer the provisions of this Article.

39 The State Board, acting by and through the ~~President of the Community College System,~~
40 State Board of Proprietary Schools, may request any occupational licensing or approving board
41 or agency in this State to adopt rules requiring the approval of that board or agency for a course
42 of study. Under these rules, the board or agency shall pass on the adequacy of equipment,
43 curricula, and instructional personnel. The State Board of Community Colleges may deny
44 approval to a course of study that is not approved by such board or agency."

45 **SECTION 4.** G.S. 115D-90 reads as rewritten:

46 **"§ 115D-90. License required; application for license; school bulletins; requirements for**
47 **issuance of license; license restricted to courses indicated; supplementary**
48 **applications.**

49 (a) No person shall operate, conduct or maintain or offer to operate in this State a
50 proprietary school unless a license is first secured from the State Board of Community Colleges
51 granted in accordance with the provisions of this Article and the rules adopted by the Board

1 under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal
2 acceptance by the Board of the educational programs and facilities of each school approved.

3 (b) Application for a license shall be filed in the manner and upon the forms prescribed
4 and furnished by the ~~President of the Community College System~~ State Board of Proprietary
5 Schools for that purpose. Such application shall be signed by the applicant and properly
6 verified and shall contain such of the following information as may apply to the particular
7 school for which a license is sought:

8 (1) The title or name of the school or classes, together with the name and
9 address of the owners and of the controlling officers thereof.

10 (2) The general field of instruction.

11 (3) The place or places where such instruction will be given.

12 (4) A specific listing of the equipment available for instruction in each field.

13 (5) The qualifications of instructors and supervisors.

14 (6) Financial resources available to equip and to maintain the school or classes.

15 (7) Such additional information as the State Board, acting by and through the
16 ~~President of the Community College System~~, State Board of Proprietary
17 Schools, may deem necessary to enable it to determine the adequacy of the
18 program of instruction and matters pertaining thereto. Each application shall
19 be accompanied by a copy of the current bulletin or catalog of the school
20 which shall be in published form and certified by an authorized official of
21 the school as being current, true, and correct in content and policy. The
22 school bulletin shall contain the following information:

23 a. Identifying data, such as volume number and date of publication.

24 b. Names of the institution and its governing body, officials and faculty.

25 c. A calendar of the institution showing legal holidays, beginning and
26 ending date of each quarter, term or semester, and other important
27 dates.

28 d. Institution's policy and regulations relative to leave, absences, class
29 cuts, make-up work, tardiness and interruptions for unsatisfactory
30 attendance.

31 e. Institution's policy and regulations on enrollment with respect to
32 enrollment dates and specific entrance requirements for each course.

33 f. Institution's policy and regulations relative to standards of progress
34 required of the student by the institution. This policy will define the
35 grading system of the institution; the minimum grades considered
36 satisfactory; conditions for interruption for unsatisfactory grades or
37 progress and description of the probationary period, if any, allowed
38 by the institution; and conditions of reentrance for those students
39 dismissed for unsatisfactory progress. A statement will be made
40 regarding progress records kept by the institution and furnished the
41 student.

42 g. Institution's policy and regulations relating to student conduct and
43 conditions for dismissal for unsatisfactory conduct.

44 h. Detailed schedule for fees, charges for tuition, books, supplies, tools,
45 student activities, laboratory fees, service charges, rentals, deposits,
46 and all other charges.

47 i. Policy and regulations of the institution relative to the refund of the
48 unused portion of tuition, fees and other charges in the event the
49 student does not enter the course or withdraws or is discontinued
50 therefrom. The policy and regulations shall provide for, at a
51 minimum, a full refund if a student withdraws before the first day of

- 1 class or the school cancels the class and a seventy-five percent (75%)
2 refund if the student withdraws within the first twenty-five percent
3 (25%) of the period of enrollment for which the student was charged.
- 4 j. A description of the available space, facilities and equipment.
- 5 k. A course outline for each course for which approval is requested,
6 showing:
- 7 1. Subjects or units in the course,
8 2. Type of skill to be learned, and
9 3. Approximate (i) time; (ii) clock hours, and (iii) credit hours
10 or credit hours equivalent, as appropriate, to be spent on each
11 subject or unit.
- 12 l. Policy and regulations of the institution relative to granting credit for
13 previous educational training.
- 14 (c) After due investigation and consideration on the part of the State Board, acting by
15 and through the ~~President of the Community College System~~, State Board of Proprietary
16 Schools, as provided herein, a license shall be granted to the applicant when it is shown to the
17 satisfaction of ~~said the State Board~~ that said applicant, school, programs of study or courses are
18 found to have met the following criteria:
- 19 (1) The courses, curriculum and instruction are consistent in quality, content and
20 length with similar courses in public schools and other private schools in the
21 State, with recognized accepted standards.
- 22 (2) There is in the institution adequate space, equipment, instructional material
23 and instructor personnel to provide training of good quality.
- 24 (3) Education and experience qualifications of director, administrators and
25 instructors are adequate.
- 26 (4) The institution maintains a written record of the previous education and
27 training of the student.
- 28 (5) A copy of the course outline, schedule of tuition, fees and other charges,
29 regulations pertaining to absences, grading policy and rules of operation and
30 conduct will be furnished the student upon enrollment.
- 31 (6) Upon completion of training, the student is given a certificate or diploma by
32 the institution indicating the approved course or subjects and indicating that
33 training was satisfactorily completed.
- 34 (7) Adequate records as prescribed by the State Board of Community Colleges,
35 acting by and through the ~~President of the Community College System~~, State
36 Board of Proprietary Schools, are kept to show attendance and progress or
37 grades and satisfactory standards relating to attendance, progress and
38 conduct are enforced.
- 39 (8) The school complies with all local, city, county, municipal, State and federal
40 regulations, such as fire codes, building and sanitation codes. The State
41 Board of Community Colleges may require such evidence of compliance as
42 is deemed necessary.
- 43 (9) The school is financially sound and capable of fulfilling its commitments for
44 training.
- 45 (10) The school does not exceed its enrollment limitation as established by the
46 State Board of Community Colleges.
- 47 (11) The school does not utilize advertising of any type which is erroneous or
48 misleading, either by actual statement, omission or intimation.
- 49 (12) The school's administrators, directors, owners and instructors are of good
50 reputation and character.

1 (13) Such additional criteria as may be deemed necessary by the State
2 ~~Board.~~Board of Community Colleges.

3 (d) Any license issued shall be restricted to the programs of instruction or courses or
4 subjects specifically indicated in the application for a license. The holder of a license shall
5 present a supplementary application as may be directed by the ~~President of the Community~~
6 ~~College System~~State Board of Proprietary Schools for approval of additional programs of
7 instruction, courses, or subjects, in which it is desired to offer instruction during the effective
8 period of the license."

9 **SECTION 5.** G.S. 115D-91 reads as rewritten:

10 "**§ 115D-91. Duration and renewal of licenses; notice of change of ownership,**
11 **administration, etc.; license not transferable.**

12 (a) All licenses issued shall expire on ~~June 30 next following the date of issuance.~~June
13 30.

14 (b) Unless a duration is otherwise prescribed by the State Board of Community
15 Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are
16 met:

17 (1) An application for the renewal of the license has been filed in the form and
18 manner prescribed by the State Board, acting by and through the ~~President of~~
19 ~~the Community College System.~~State Board of Proprietary Schools.

20 (2) The renewal fee has been paid.

21 (3) The school and its courses, facilities, faculty and all other operations are
22 found to meet the criteria set forth in the requirements for a school to secure
23 an original license.

24 (c) After a license is granted to any school by the State Board of Community Colleges
25 on the basis of its application, it shall be the responsibility of said school to notify immediately
26 ~~said the State~~ Board of any changes in the ownership, administration, location, faculty, the
27 instructional program or other changes as may affect significantly the course of instruction
28 offered.

29 (d) In the event of the sale of such school, the license already granted to the original
30 owner or operators thereof shall not be transferable to the new ownership or operators.
31 Provided, however, the ~~President of the Community College System~~State Board of Proprietary
32 Schools may issue a 90-day, temporary operating license to a school upon its sale if the school
33 held a valid, current license prior to the sale, and if the ~~President~~State Board of Proprietary
34 Schools finds that the school is likely to qualify after the sale for a license under this Article."

35 **SECTION 6.** G.S. 115D-92 reads as rewritten:

36 "**§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund**
37 **of fees.**

38 ~~The State Board of Community Colleges~~State Board of Proprietary Schools, as provided in
39 G.S. 115D-89.3, shall establish reasonable fees for licenses, renewals, and approvals granted,
40 and for inspections performed pursuant to this ~~Article.~~Article in accordance with Article 2A of
41 Chapter 150B of the General Statutes.

42 The fees and licenses collected under this section shall be placed in a special fund to be
43 designated the "Commercial Education Fund" and shall be used under the supervision and
44 direction of the ~~State Board of Community Colleges~~State Board of Proprietary Schools for the
45 administration of this Article. No license fee shall be refunded in the event the application is
46 rejected or the license suspended or revoked."

47 **SECTION 7.** G.S. 115D-93 reads as rewritten:

48 "**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial**
49 **review; grounds.**

50 (a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under
51 this section shall be made in accordance with Chapter 150B of the General Statutes.

1 (b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke
2 a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the
3 General Statutes.

4 (c) The State Board, acting by and through the ~~President of the Community College~~
5 ~~System, State Board of Proprietary Schools,~~ shall have the power to refuse to issue or renew
6 any such license and to suspend or revoke any such license theretofore issued in case it finds
7 one or more of the following:

- 8 (1) That the applicant for or holder of such a license has violated any of the
9 provisions of this Article or any of the rules promulgated thereunder.
- 10 (2) That the applicant for or holder of such a license has knowingly presented to
11 the State Board of Community Colleges false or misleading information
12 relating to approval or license.
- 13 (3) That the applicant for or holder of such a license has failed or refused to
14 permit authorized representatives of the State Board of Community Colleges
15 to inspect the school, or has refused to make available to them at any time
16 upon request full information pertaining to matters within the purview of the
17 State Board of Community Colleges under the provisions of this Article.
- 18 (4) That the applicant for or holder of such a license has perpetrated or
19 committed fraud or deceit in advertising the school or in presenting to the
20 prospective students written or oral information relating to the school, to
21 employment opportunities, or to opportunities for enrollment in other
22 institutions upon completion of the instruction offered in the school.
- 23 (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo
24 contendere or has been found guilty of a crime involving moral turpitude by
25 a judge or jury in any state or federal court.
- 26 (6) That the applicant or licensee has failed to provide or maintain premises,
27 equipment or conditions which are adequate, safe and sanitary, in
28 accordance with such standards of the State of North Carolina or any of its
29 political subdivisions, as are applicable to such premises and equipment.
- 30 (7) That the licensee is employing teachers, supervisors or administrators who
31 have not been approved by the State Board, acting by and through the
32 ~~President of the Community College System, State Board of Proprietary~~
33 Schools.
- 34 (8) That the licensee has failed to provide and maintain adequate premises,
35 equipment, materials or supplies, or has exceeded the maximum enrollment
36 for which the school or class was licensed.
- 37 (9) That the licensee has failed to provide and maintain adequate standards of
38 instruction or an adequate and qualified administrative, supervisory or
39 teaching staff.
- 40 (10) That the applicant for or a holder of a license has failed to provide a required
41 bond or bond alternative.
- 42 (11) That the applicant for or holder of a license has failed to pay assessments
43 into the Student Protection Fund."

44 **SECTION 8.** G.S. 115D-95(b) reads as rewritten:

45 "(b) Amount. – An applicant for a license must file a bond with the North Carolina State
46 Board of Community Colleges executed by the applicant as a principal and by a bonding
47 company authorized to do business in this State. The bond must be payable to the State Board
48 of Community Colleges, must be conditioned on fulfillment of the school's obligations, and
49 must remain in effect until cancelled by the bonding company. The bonding company may
50 cancel the bond upon 30 days' notice to the State Board of Community Colleges.

1 The application must set out calculations made by the applicant to determine the amount of
2 bond required with the application. The required amount is determined as follows:

- 3 (1) Initial licensure. – For an applicant for initial licensure of a school, the bond
4 amount is the amount determined by the State Board that is adequate to
5 provide indemnification to any student, or the student's parent or guardian
6 who has suffered a loss of tuition, fees, or any other instructional-related
7 expenses paid to the school. A bond amount shall be at least twenty-five
8 thousand dollars (\$25,000).
- 9 (2) First four renewals. – For a school that has been licensed for one year but
10 less than six years, the bond shall be in an amount equal to the greatest
11 amount of unearned paid tuition in the school's possession at anytime during
12 the prior fiscal year. The bond amount shall be evaluated by the school
13 quarterly and reported to the State Board or its representative. A quarterly
14 evaluation requiring an increase of five percent (5%) or more in the amount
15 of the bond held by the school shall require an immediate increase in the
16 bond amount. Bond amounts also shall be evaluated pursuant to this
17 subdivision and the rules of the State Board of Community Colleges and
18 State Board of Proprietary Schools at the time of the school's annual license
19 renewal and increased if necessary regardless of the amount of the change.
- 20 (3) Schools in operation more than five years. – A guaranty bond shall be
21 required for license renewal for a school that has been continuously licensed
22 to operate for more than five years in the State, as follows:
- 23 a. If the balance of the Student Protection Fund in G.S. 115D-95.1 is
24 below the catastrophic loss amount, the school shall file a guaranty
25 bond in an amount equal to the maximum amount of prepaid tuition
26 held by the school during the prior fiscal year multiplied by the
27 percentage amount the fund is deficient.
- 28 b. If the school held prepaid tuition in excess of the Student Protection
29 Fund catastrophic loss amount during the prior fiscal year, in
30 addition to any bond amount required by sub-subdivision a. of this
31 subdivision, the school shall file a guaranty bond for the difference
32 between the prepaid tuition amount held in the previous fiscal year
33 and the Fund catastrophic loss amount."

34 **SECTION 9.** G.S. 115D-95.1 reads as rewritten:

35 **"§ 115D-95.1. Student Protection Fund.**

36 (a) Definitions. – As used in this section:

- 37 (1) "Catastrophic loss amount" means the amount of funds required to protect
38 prepaid student tuition in case of a large-scale event that would draw against
39 the Student Protection Fund. The amount is one million dollars (\$1,000,000).
40 (2) "Fund cap amount" means the catastrophic loss amount plus a reserve
41 amount. The amount is one million five hundred thousand dollars
42 (\$1,500,000).

43 (b) Student Protection Fund. – The Student Protection Fund is established in the
44 Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund
45 is credited to the Fund. The State Board of ~~Community Colleges~~ Proprietary Schools
46 administers the Fund. The purpose of the Fund is to compensate students enrolled in a
47 proprietary school licensed under this Article who have suffered a loss of tuition, fees, or any
48 other instructional-related expenses paid to the school by reason of the failure of the school to
49 offer or complete student instruction, academic services, or other goods and services related to
50 course enrollment if the school ceases to operate for any reason, including the suspension,
51 revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

1 (c) Student Protection Fund Advisory Committee. —~~The President of the North~~
 2 ~~Carolina Community College System shall appoint a Student Protection Fund Advisory~~
 3 ~~Committee. Members of the Committee shall be appointed for terms of three years. The State~~
 4 ~~Board of Proprietary Schools shall serve as the Student Protection Advisory Committee. The~~
 5 ~~Committee shall advise the State Board of Community Colleges on matters related to the Fund,~~
 6 ~~including, but not limited to, the adjustment of the catastrophic loss amount and Fund cap~~
 7 ~~amount.~~

8 ~~The Committee shall consist of seven members as follows:~~

- 9 (1) ~~Three professional staff members of the Community Colleges System~~
 10 ~~Office.~~
- 11 (2) ~~An owner/director of a proprietary school with less than 100 students, or the~~
 12 ~~owner/director's designee.~~
- 13 (3) ~~An owner/director of a proprietary school with between 100 and 750~~
 14 ~~students, or the owner/director's designee.~~
- 15 (4) ~~An owner/director of a proprietary school or group of proprietary schools~~
 16 ~~with more than 750 students, or the owner/director's designee.~~
- 17 (5) ~~An owner/director of a proprietary school appointed at large, or the~~
 18 ~~owner/director's designee.~~

19 (d) Initial Payment. – Prior to its first year of operation in the State, each proprietary
 20 school shall pay an initial amount of one thousand two hundred fifty dollars (\$1,250) into the
 21 Fund.

22 (e) Annual Revenue Payment. – Each proprietary school operating in the State shall pay
 23 annually into the Fund an amount based on its annual gross tuition revenue generated in the
 24 State as follows:

Annual Gross Tuition Revenue	Amount of Assessment
\$1.00 – \$25,000	\$200.00
\$25,001 – \$50,000	\$250.00
\$50,001 – \$100,000	\$300.00
\$100,001 – \$200,000	\$400.00
\$200,001 – \$300,000	\$500.00
\$300,001 – \$400,000	\$600.00
\$400,001 – \$500,000	\$700.00
\$500,001 – \$750,000	\$1,000
\$750,001 – \$1,000,000	\$1,250
\$1,000,001 – \$1,500,000	\$1,500
\$1,500,001 – \$2,000,000	\$2,000
Greater than \$2,000,000	\$2,000 plus one-twentieth of one percent (.05%) of annual gross tuition revenue over \$2,000,000.

38 (f) Suspension of Payments. – If the Student Protection Fund balance is equal to or
 39 exceeds the Fund cap amount, the State Board of ~~Community Colleges-Proprietary Schools~~
 40 shall suspend payments into the Fund for schools that have been continuously licensed in the
 41 State for more than eight years. The State Board of Proprietary Schools shall require schools to
 42 resume payments into the Fund if the balance of the Fund is less than the catastrophic loss
 43 amount.
 44

45 (g) Catastrophic Assessments. – If claims against the Student Protection Fund exceed
 46 the catastrophic loss amount, the State Board of ~~Community Colleges-Proprietary Schools~~ may
 47 assess additional fees to the extent necessary to compensate students qualified for repayment
 48 under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the
 49 amount of the annual revenue payment required by subsection (e) of this section. If the amount
 50

1 of the catastrophic assessment will be insufficient to cover qualified claims, the State Board
2 shall develop a method of allocating funds among claims.

3 (h) Payment Required for Proprietary School Licensure. – The full and timely payment
4 into the Fund pursuant to this section is a condition of licensure.

5 (i) Payments Nonrefundable. – No payment to the Student Protection Fund shall be
6 refunded in the event that a school's license application is rejected or a school's license is
7 suspended or revoked.

8 (j) Student Repayment. – A student, or the student's parent or guardian, who has
9 suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary
10 school licensed under this Article by reason of the school ceasing to operate for any reason,
11 including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or
12 foreclosure, may qualify for repayments under the Student Protection Fund. The State Board of
13 Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If
14 the Student Protection Fund is insufficient to cover the qualified claims, the State Board must
15 develop a method of allocating funds among claims.

16 (k) Rules. – The State Board of ~~Community Colleges~~Proprietary Schools shall adopt
17 rules for the implementation of this section."

18 **SECTION 10.** Effective July 1, 2011, two positions in the Community Colleges
19 System Office of Proprietary Schools shall be terminated.

20 **SECTION 11.** Appointments to the State Board of Proprietary Schools shall be
21 made within 30 days after the effective date of this act.

22 **SECTION 12.** Sections 1 through 9 of this act become effective January 1, 2012.
23 Section 10 of this act becomes effective July 1, 2011. The remainder of this act is effective
24 when it becomes law.