

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 327
Committee Substitute Favorable 4/19/17
PROPOSED COMMITTEE SUBSTITUTE H327-PCS30390-TC-33

Short Title: NC Board of Proprietary Schools.

(Public)

Sponsors:

Referred to:

March 14, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA PROPRIETARY SCHOOL
3 LICENSURE ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 8 of Chapter 115D of the General Statutes is repealed.

6 **SECTION 2.** The General Statutes are amended by adding a new Chapter to read:

7 **"Chapter 115F.**

8 **"North Carolina Proprietary School Licensure Act.**

9 **"§ 115F-1. Short title.**

10 This Chapter shall be known as the "North Carolina Proprietary School Licensure Act."

11 **"§ 115F-5. Purpose.**

12 The purpose of this Chapter is to provide for the establishment, organization, and
13 administration of educational institutions having a physical presence in North Carolina that
14 educate or train students in vocational programs leading toward professional licensing
15 examination, employment, or a postsecondary degree below the associate level. The major
16 purpose of each institution operating under this Chapter shall be to provide a quality education
17 through a sustained curriculum equal to that prescribed for similar public schools and
18 educational institutions of the State that have met the standards set forth by the North Carolina
19 Board of Proprietary Schools, including course offerings, adequate facilities, financial stability,
20 competent personnel, and legitimate operating practices.

21 **"§ 115F-10. Definitions.**

22 The following definitions apply in this Chapter:

23 (1) Board. – North Carolina Board of Proprietary Schools.

24 (2) Catastrophic loss amount. – Funds in the amount of one million five hundred
25 thousand dollars (\$1,500,000) to protect prepaid student tuition in case of a
26 large-scale event that would draw against the Student Protection Fund.

27 (3) Commercial Education Fund. – The Fund established in G.S. 115F-35.

28 (4) Distance education. – Education, training courses, or programs delivered to a
29 student who is geographically separate from the instructor. Distance
30 education shall not include education, training courses, or programs
31 delivered by institutions licensed under G.S. 116-15. Delivery systems
32 employed by a proprietary school may include any of the following:

33 a. Correspondence.

34 b. Classroom instruction.



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- 1 c. Instruction provided in hotels or other temporary dwelling units or
2 areas.
- 3 d. Electronic communications.
- 4 (5) Fund cap amount. – The cap amount for the Student Protection Fund that is
5 equal to the catastrophic loss amount plus a reserve in the amount of five
6 hundred thousand dollars (\$500,000).
- 7 (6) License. – A certificate issued by the Board to a proprietary school that
8 meets the requirements established for a proprietary school by this Chapter
9 and rules adopted pursuant to this Chapter.
- 10 (7) Person. – Any individual, association, partnership, or corporation and
11 includes any director, receiver, referee, trustee, executor, or administrator, as
12 well as a natural person.
- 13 (8) Proprietary school. – An educational institution having a physical presence
14 within North Carolina, including a branch or extension of a private
15 postsecondary educational institution of another state that (i) is located in
16 this State or (ii) offers educational services or education at a physical
17 location within this State, that meets all of the following conditions:
- 18 a. It is privately owned by a sole proprietorship, partnership, limited
19 liability company, or corporation.
- 20 b. It is established as a business entity or as a nonprofit charitable
21 organization.
- 22 c. It offers instruction to individuals who (i) have completed their
23 elementary and secondary education or (ii) are beyond the age of
24 compulsory secondary school attendance and have demonstrated an
25 ability to benefit from that instruction for the attainment of
26 educational objectives, vocational objectives, or both.
- 27 d. It charges tuition or receives any consideration from a student for any
28 portion of the instruction in any form, including written or
29 audiovisual material.
- 30 e. It educates, trains, or claims to educate or train students in a program
31 leading toward (i) examinations for licensing in a profession or
32 vocation, (ii) employment at a beginning or advanced level, or (iii) a
33 postsecondary educational credential below the associate degree
34 level.
- 35 (9) Student Protection Fund. – The Fund established in G.S. 115F-60.

36 "**§ 115F-15. Exemptions.**

37 The following shall be exempt from the provisions of this Chapter:

- 38 (1) Nonprofit schools conducted by (i) charities that are exempt from taxation
39 under section 501(c)(3) of the Internal Revenue Code where no fee or tuition
40 is charged to the student or (ii) religious institutions.
- 41 (2) Schools maintained or classes conducted by employers for their own
42 employees where no fee or tuition is charged to the student.
- 43 (3) Courses of instruction given by any fraternal society, civic club, or
44 benevolent order, which courses are not operated for profit.
- 45 (4) Any school for which there is another legally existing licensing or approving
46 board or agency in this State.
- 47 (5) Classes or schools that are equipment-specific to purchasers, users, classes,
48 or schools offering training or instruction to acquaint purchasers or users
49 with equipment capabilities.

1 (6) Classes or schools that the Board determines are avocational, recreational,
2 for self-improvement, or continuing education for already trained and
3 occupationally qualified individuals.

4 (7) Any established university, professional, or liberal arts college, public or
5 private school regulated or recognized pursuant to Chapter 115C of the
6 General Statutes or by any other State agency, or any State institution which
7 has offered, or which may offer, one or more courses covered in this
8 Chapter, provided that the tuition, fees, and charges, if any, made by such
9 university, college, high school, or State institution shall be collected by
10 their regular officers in accordance with the rules prescribed by the board of
11 trustees or governing body of such university, college, high school, or State
12 institution.

13 (8) Any institution exempt from licensure pursuant to G.S. 116-15(c).

14 **"§ 115F-20. North Carolina Board of Proprietary Schools.**

15 (a) There is established the North Carolina Board of Proprietary Schools located
16 administratively within the Department of Administration, but the Board shall exercise all its
17 prescribed powers independently of the Department of Administration. The Board shall consist
18 of seven members appointed or serving ex officio as follows:

19 (1) Two members appointed by the Governor.

20 (2) Two members appointed upon recommendation of the President Pro
21 Tempore of the Senate, as provided in G.S. 120-121, as follows:

22 a. One member who is the owner or director of a proprietary school
23 licensed in the State with a total annual enrollment of fewer than 100
24 students.

25 b. One member who is the owner or director of a proprietary school or
26 group of proprietary schools licensed in the State with a total annual
27 enrollment of more than 750 students.

28 (3) Two members appointed upon recommendation of the Speaker of the House
29 of Representatives, as provided in G.S. 120-121, as follows:

30 a. One member who is the owner or director of a proprietary school
31 licensed in the State with a total annual enrollment between 100 and
32 750 students.

33 b. One member who is the owner or director of a proprietary school
34 licensed in the State.

35 (4) The President of the North Carolina Community College System or the
36 President's designee.

37 (b) Members appointed pursuant to subsection (a) of this section shall possess (i) a
38 demonstrated history of experience related to a proprietary school or public postsecondary
39 education, (ii) an understanding of standards of quality in postsecondary education, and (iii) a
40 leadership background beyond the leadership experience demonstrated at a particular
41 proprietary school.

42 (c) Appointments for all members shall be for terms of four years beginning on January
43 1. Appointed members may be reappointed but shall not serve more than two consecutive terms
44 of four years. Vacancies among appointed members shall be filled by the appointing entity and
45 shall be for the remainder of the vacant term. Vacancies appointed by the General Assembly
46 shall be filled in accordance with G.S. 120-122.

47 (d) The Board shall elect from the appointed members a chair and a vice-chair for terms
48 of two years. A chair or vice-chair may serve no more than two consecutive terms in that role.

49 (e) No member of the General Assembly, spouse of a member of the General
50 Assembly, or officer or employee of the State shall be eligible to serve on the Board as an
51 appointed member.

1 (f) The Board may declare vacant the office of a member who does not attend three
2 consecutive scheduled meetings without justifiable excuse. The chair shall notify the
3 appropriate appointing authority of any such vacancy.

4 (g) The Board shall meet at stated times established by the Board but not less frequently
5 than four times a year. Special meetings of the Board may be set at any regular meeting or may
6 be called by the chair. A majority of the appointed members of the Board shall constitute a
7 quorum for the transaction of business.

8 (h) Members of the Board shall receive such per diem compensation and necessary
9 travel and subsistence expenses while engaged in the official discharge of the official duties as
10 provided in G.S. 93B-5.

11 **"§ 115F-25. Powers and duties of the Board.**

12 The Board shall have the following powers and duties:

- 13 (1) Administer and enforce the provisions of this Chapter, including all of the
14 following powers:
- 15 a. Have the powers of a body corporate, including the power to make
16 contracts and to alter the same as may be deemed expedient.
- 17 b. Be authorized and empowered to rent and lease such property, real or
18 personal, as the Board may deem proper to carry out the purposes
19 and provisions of this Chapter, all or any of them.
- 20 c. Establish an office for the transaction of its business at such place or
21 places as, in the opinion of the Board, shall be advisable or necessary
22 in carrying out the purposes of this Chapter.
- 23 d. Be authorized and empowered to pay from the Commercial
24 Education Fund all necessary costs and expenses involved in and
25 incident to the formation, organization, and administration of the
26 Board and all other costs and expenses reasonably necessary or
27 expedient in carrying out and accomplishing the purposes of this
28 Chapter.
- 29 e. Be authorized and empowered to do any and all other acts and things
30 in this Chapter authorized or required to be done, whether or not
31 included in the general powers listed in this section.
- 32 (2) Adopt rules in accordance with Chapter 150B of the General Statutes as may
33 be necessary to administer the provisions of this Chapter.
- 34 (3) Grant and issue licenses to proprietary schools whose sustained curriculum
35 is of a grade equal to that prescribed for similar public schools and
36 educational institutions of the State and that have met the standards set forth
37 by the Board, including offerings, adequate facilities, financial stability,
38 competent personnel, and legitimate operating practices.
- 39 (4) Formulate the criteria and the standards for the approval of proprietary
40 schools.
- 41 (5) Provide for adequate investigations of all proprietary schools applying for a
42 license. The Board shall not contract with or employ a person who is
43 employed by a proprietary school licensed by the Board to serve as an
44 investigator or inspector.
- 45 (6) Issue licenses to those applicants meeting the standards adopted by the
46 Board.
- 47 (7) Maintain a list of schools licensed under the provisions of this Chapter and
48 make that list available for inspection by the public.
- 49 (8) Provide for periodic inspection of all schools licensed under the provisions
50 of this Chapter.

- 1 (9) Oversee the proprietary schools in the State in order to protect the health,
2 safety, and welfare of the public by requiring the proprietary schools to
3 maintain adequate, safe, and sanitary school locations, sufficient and proper
4 facilities and equipment, sufficient and qualified teaching and administrative
5 staff, and satisfactory programs of operation and instruction and to require
6 proprietary schools to carry out advertised promises and contracts made with
7 its students and patrons.
- 8 (10) Request any occupational licensing or approving board or agency in this
9 State to adopt rules requiring the approval of that board or agency for a
10 course of study. Under these rules, the board or agency shall pass on the
11 adequacy of equipment, curricula, and instructional personnel. The Board
12 may deny approval to a course of study that is not approved by such board or
13 agency.
- 14 (11) Pursuant to the maximum amounts set forth by this Chapter and other
15 specific authority authorizing fees, establish reasonable fees related to the
16 approval and operation of proprietary schools.

17 **"§ 115F-30. Office of Proprietary Schools.**

18 (a) The Board shall establish an Office of Proprietary Schools as its principal
19 administrative unit staffed with State employees as provided by this section. The Board shall
20 employ an executive director of the Office of Proprietary Schools, who shall serve as chief
21 administrative officer. The Board may contract with an outside consultant to serve as the
22 executive director. The compensation of this position shall be fixed by the Board from funds
23 provided by fees deposited in the Commercial Education Fund.

24 (b) The Board may hire other employees as it deems necessary to carry out the
25 provisions of this Chapter. The compensation of the staff members hired by the Board shall be
26 fixed by the Board upon recommendation of the executive director of the Office of Proprietary
27 Schools.

28 (c) Each year, at a time designated by the Board, the executive director of the Office of
29 Proprietary Schools shall submit a written report to the Board and the State Board of
30 Community Colleges containing the following information:

- 31 (1) The number of schools receiving initial licenses during the previous year.
32 (2) A list of all licensed proprietary schools operating in the State.
33 (3) Any school closures during the previous year, including a complete report of
34 actions concerning any catastrophic closures.
35 (4) Any complaints received and the resulting decisions or actions on the
36 complaints.
37 (5) The total fees collected.
38 (6) The balances of the Commercial Education Fund and the Student Protection
39 Fund.
40 (7) A recommendation for the annual projected operating budget.
41 (8) If applicable, a recommendation for an adjustment to the catastrophic loss
42 amount or cap amount for the Student Protection Fund.

43 **"§ 115F-35. Authority to establish and collect fees; Commercial Education Fund; refund**
44 **of fees.**

45 (a) The Board shall establish fees for applications, initial licensure, license renewal, and
46 inspections performed of proprietary schools pursuant to this Chapter in accordance with
47 Article 2A of Chapter 150B of the General Statutes not to exceed the following:

- 48 (1) Initial license. – Three thousand five hundred twenty dollars (\$3,520), plus
49 fifty-five dollars (\$55.00) per program submitted for licensure.
50 (2) Annual license renewal. – One thousand eight hundred seventy dollars
51 (\$1,870), plus fifty-five dollars (\$55.00) per licensed program renewed and

1 two hundred twenty dollars (\$220.00) for each new program submitted for
2 licensure. A late fee of five hundred fifty dollars (\$550.00) may be assessed
3 for any license renewal application postmarked after March 15.

4 (3) Program additions submitted outside of the annual license renewal period. –
5 Two hundred twenty dollars (\$220.00).

6 (4) Program revisions. – Two hundred twenty dollars (\$220.00).

7 (5) School relocations. – Five hundred fifty dollars (\$550.00).

8 (6) Remote sites. – One thousand one hundred dollars (\$1,100) initial site fee,
9 plus an annual renewal fee of eight hundred twenty-five dollars (\$825.00).

10 (7) Site assessments to verify compliance with statutes or rules or to approve
11 program additions of changes. – Five hundred fifty dollars (\$550.00).

12 (b) All fees and other moneys collected and received by the Board shall be used for the
13 purposes of implementing this Chapter. In no case shall any salary, expense, or other obligation
14 of the Board be charged against the General Fund.

15 (c) There is established the Commercial Education Fund as a special fund consisting of
16 fees collected pursuant to this Chapter. Moneys in the Fund shall be used under the supervision
17 and direction of the Board for the administration of this Chapter.

18 (d) No fee shall be refunded in the event an application is rejected or if a license is
19 suspended or revoked.

20 **§ 115F-40. License required; application for license; school bulletins; requirements for**
21 **issuance of license; license restricted to courses indicated; supplementary**
22 **applications.**

23 (a) No person shall operate, conduct, or maintain or offer to operate in this State a
24 proprietary school unless a license is first secured from the Board granted in accordance with
25 the provisions of this Chapter and the rules adopted by the Board. The license, when issued,
26 shall constitute the formal acceptance by the Board of the educational programs and facilities of
27 each school approved.

28 (b) If a proprietary school has physical locations and offers classes in more than one
29 county in the State, the school's operation in each county shall constitute a separate proprietary
30 school for the purposes of licensure under this Chapter.

31 (c) Application for a license shall be filed in the manner and upon the forms prescribed
32 and furnished by the Board for that purpose. The application shall be signed by the applicant
33 and properly verified and shall contain the following information as may apply to the particular
34 proprietary school for which a license is sought:

35 (1) The title or name of the school or classes and the names and addresses of the
36 owners and of the controlling officers of the school.

37 (2) The general field of instruction.

38 (3) The place or places where the instruction shall be given.

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

40 (5) The qualifications of instructors and supervisors.

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

42 (7) A copy of the current bulletin or catalog of the school, which shall be in
43 published form and certified by an authorized official of the school as being
44 current, true, and correct in content and policy. The school bulletin shall
45 contain the following information:

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

47 b. Names of the school and its governing body, officials, and faculty.

48 c. A calendar of the school showing legal holidays, beginning and
49 ending dates of each quarter, term, or semester, and other important
50 dates.

- 1 d. Policy and regulations relative to leave, absences, class cuts,
2 make-up work, tardiness, and interruptions for unsatisfactory
3 attendance.
- 4 e. Policy and regulations on enrollment with respect to enrollment dates
5 and specific entrance requirements for each course.
- 6 f. Policy and regulations relative to standards of progress required of
7 the student by the school. A statement shall be made regarding
8 progress records kept by the school and furnished to the student. The
9 policy must define the following:
- 10 1. The grading system of the school.
11 2. The minimum grades considered satisfactory.
12 3. Conditions for interruption for unsatisfactory grades or
13 progress.
14 4. Description of the probationary period, if any, allowed by the
15 school.
16 5. Conditions of reentrance for those students dismissed for
17 unsatisfactory progress.
- 18 g. Policy and regulations relating to student conduct and conditions for
19 dismissal for unsatisfactory conduct.
- 20 h. Detailed schedule of fees; charges for tuition, books, supplies, tools,
21 student activities, laboratory fees, service charges, rentals, and
22 deposits; and all other charges.
- 23 i. Policy and regulations relative to the refund of the unused portion of
24 tuition, fees, and other charges in the event the student does not enter
25 or withdraws from a course or a course is discontinued. The policy
26 and regulations shall provide for, at a minimum, a full refund if a
27 student withdraws before the first day of class or the school cancels
28 the class and a seventy-five percent (75%) refund if the student
29 withdraws within the first twenty-five percent (25%) of the period of
30 enrollment for which the student was charged.
- 31 j. A description of the available space, facilities, and equipment.
- 32 k. A course outline for each course for which approval is requested,
33 showing:
- 34 1. Subjects or units in the course.
35 2. Type of skill to be learned.
36 3. Approximate time in clock hours, credit hours, or credit hours
37 equivalent, as appropriate, to be spent on each subject or unit.
- 38 l. Policy and regulations for granting credit for previous educational
39 training.
- 40 (8) Any additional information as the Board may deem necessary to enable it to
41 determine the adequacy of the program of instruction and whether the
42 standards for licensure adopted by the Board have been met.
- 43 (d) After reasonable investigation and consideration on the part of the Board, a license
44 shall be granted to the proprietary school when it is shown to the satisfaction of the Board that
45 the applicant, school, and programs of study or courses are found to have met at least the
46 following criteria:
- 47 (1) Courses, curriculum, and instruction are consistent in quality, content, and
48 length with similar courses in public schools and other private schools in the
49 State, with recognized accepted standards.
- 50 (2) Adequate space, equipment, instructional material, and instructor personnel
51 are available to students to provide training of good quality.

- 1 (3) Education and experience qualifications of the director, administrators, and
2 instructors are adequate.
- 3 (4) The school maintains a written record of the previous education and training
4 of the student.
- 5 (5) A copy of the course outline, schedule of tuition, fees, and other charges,
6 regulations pertaining to absences, grading policy, and the rules of operation
7 and conduct shall be furnished to the student upon enrollment.
- 8 (6) Upon completion of training, the student is given a certificate or diploma by
9 the school for work in the approved course or subjects that indicates the
10 training was satisfactorily completed.
- 11 (7) Adequate records, as prescribed by the Board, are kept to show student
12 attendance, progress, or grades, and that satisfactory standards relating to
13 attendance, progress, and conduct are enforced.
- 14 (8) The school complies with all local, city, county, municipal, State, and
15 federal laws and regulations, including fire codes and building and sanitation
16 codes. The Board may require evidence of compliance as is deemed
17 necessary.
- 18 (9) The school is financially sound and capable of fulfilling its commitments for
19 training.
- 20 (10) The school does not exceed its enrollment limitation, as established by the
21 Board.
- 22 (11) The school does not utilize advertising of any type which is erroneous or
23 misleading, either by actual statement, omission, or intimation.
- 24 (12) The school's administrators, directors, owners, and instructors are of good
25 reputation and character.
- 26 (13) Any additional criteria as may be deemed necessary by the Board.
- 27 (e) Any license issued to a proprietary school shall be restricted to the programs of
28 instruction or courses or subjects specifically indicated in the application for a license. The
29 holder of a license shall present a supplementary application, as may be directed by the Board,
30 for approval of additional programs of instruction, courses, or subjects in which it seeks to offer
31 instruction during the effective period of the license.

32 **"§ 115F-45. Duration and renewal of licenses; notice of changes, including ownership and**
33 **administration; license not transferable.**

34 (a) All licenses issued to a proprietary school by the Board shall expire on June 30 each
35 year.

36 (b) Unless otherwise prescribed by the Board, licenses shall be renewable annually on
37 July 1 of each year if all of the following conditions are met:

- 38 (1) An application for the renewal of the license has been filed in the form and
39 manner prescribed by the Board.
- 40 (2) The renewal fee has been paid in full.
- 41 (3) The school and its courses, facilities, faculty, and all other operations are
42 found to meet the criteria set forth in the requirements for a school to secure
43 an initial license under this Chapter.

44 (c) After a license is granted to any proprietary school by the Board on the basis of its
45 application, the school shall notify the Board immediately of any material changes to the
46 operation of the school or its courses or programs as set forth in the application, including
47 changes in the ownership, administration, location, faculty, or the instructional program, or
48 other changes as may affect significantly the course of instruction offered.

49 (d) In the event of the sale or transfer of a proprietary school, a license granted to the
50 original owner or operators of a proprietary school shall not be transferable to subsequent
51 owners or operators. The Board may issue a 90-day temporary operating license to a

1 proprietary school upon its sale or transfer if the school held a valid, current license prior to the
2 sale or transfer and if the Board finds that the school is likely to qualify after the sale or transfer
3 for a license under this Chapter.

4 **"§ 115F-50. Suspension, revocation, or refusal of license; notice and hearing; judicial**
5 **review; grounds.**

6 (a) A refusal to issue, refusal to renew, suspension of, or revocation of a license by the
7 Board for a proprietary school under this section shall be subject to the provisions of Article 3
8 of Chapter 150B of the General Statutes.

9 (b) A decision by the Board under this section to refuse to grant, refuse to renew,
10 suspend, or revoke a license for a proprietary school shall be subject to judicial review in
11 accordance with Article 4 of Chapter 150B of the General Statutes.

12 (c) The Board shall have the power to refuse to issue or renew any license and to
13 suspend or revoke any license issued to a proprietary school if the Board finds that an applicant
14 for a proprietary school or the holder of a proprietary school license has done one or more of
15 the following:

- 16 (1) Violated any of the provisions of this Chapter or any of the rules
17 promulgated by the Board for the administration of this Chapter.
- 18 (2) Knowingly presented to the Board false or misleading information relating
19 to approval or renewal of a license.
- 20 (3) Failed or refused to permit authorized representatives of the Board to inspect
21 the school or refused to make available to them at any time upon request full
22 information pertaining to matters within the purview of the Board under the
23 provisions of this Chapter.
- 24 (4) Perpetrated or committed fraud or deceit in advertising the school or in
25 presenting to the prospective students written or oral information relating to
26 the school, to employment opportunities, or to opportunities for enrollment
27 in other schools upon completion of the instruction offered in the school.
- 28 (5) Pled guilty, entered a plea of nolo contendere, or been found guilty of a
29 crime involving moral turpitude by a judge or jury in any state or federal
30 court.
- 31 (6) Failed to provide or maintain premises, equipment, or conditions in a safe
32 and sanitary manner in accordance with such standards of the State or any of
33 its political subdivisions as are applicable to the premises and equipment.
- 34 (7) During the licensure period, employed teachers, supervisors, or
35 administrators who had not been approved by the Board.
- 36 (8) During the licensure period, failed to provide and maintain adequate
37 premises, equipment, materials, or supplies or exceeded the maximum
38 enrollment for which the school or class was licensed.
- 39 (9) During the licensure period, failed to provide and maintain adequate
40 standards of instruction or an adequate and qualified administrative,
41 supervisory, or teaching staff.
- 42 (10) Failed to pay license or renewal fees.
- 43 (11) Failed to provide a required bond or bond alternative.
- 44 (12) Failed to pay assessments into the Student Protection Fund.

45 **"§ 115F-55. Bonds required.**

46 (a) An applicant for a proprietary school license shall comply with the bond
47 requirements set forth in this section. The bond shall cover the potential loss by students of the
48 proprietary school of prepaid tuition and other payments made by them to a school licensed
49 under this Chapter by reason of the school ceasing to operate for any reason, including
50 bankruptcy, foreclosure, or the suspension, revocation, or nonrenewal of a school's license.

1 **(b)** An applicant for a proprietary school license shall file a bond with the Board
2 executed by the applicant as a principal and by a bonding company authorized to do business in
3 this State. The bond shall be payable to the Board, shall be conditioned on fulfillment of the
4 school's obligations, and shall remain in effect until cancelled by the bonding company. The
5 bonding company may cancel the bond upon 30 days' written notice to the Board.

6 **(c)** The application for a proprietary school initial license or renewal shall set forth the
7 calculations made by the applicant to determine the amount of bond required with the
8 application. The required amount shall be determined as follows:

9 **(1)** Initial licensure. – For an applicant for initial licensure of a school, the bond
10 amount shall be the amount determined by the Board that is adequate to
11 provide indemnification to any student or student's parent or guardian who
12 has suffered a loss of tuition, fees, or any other instructional-related
13 expenses paid to the school. A bond amount shall be at least twenty-five
14 thousand dollars (\$25,000).

15 **(2)** First five license renewals. – For the first five license renewal applications of
16 a school, the bond shall be in an amount equal to the greatest amount of
17 unearned paid tuition in the school's possession at any time during the prior
18 fiscal year. The bond amount shall be evaluated by the school quarterly and
19 reported to the Board. A quarterly evaluation requiring an increase of five
20 percent (5%) or more in the amount of the bond held by the school shall
21 require an immediate increase in the bond amount.

22 **(3)** Renewal for schools licensed at least six continuous years. – A guaranty
23 bond shall be required for license renewal for a school that has been
24 continuously licensed to operate for at least six years in the State, as follows:

25 a. If the balance of the Student Protection Fund is below the
26 catastrophic loss amount, the school shall file a guaranty bond in an
27 amount equal to the maximum amount of prepaid tuition held by the
28 school during the prior fiscal year multiplied by the percentage of the
29 amount the fund is deficient.

30 b. If the school held prepaid tuition in excess of the catastrophic loss
31 amount during the prior fiscal year, in addition to any bond amount
32 required by sub-subdivision a. of this subdivision, the school shall
33 file a guaranty bond for the difference between the prepaid tuition
34 amount held in the previous fiscal year and the catastrophic loss
35 amount.

36 Notwithstanding the amounts set forth in this subsection, the Board may require any
37 licensed school to increase its bond if it determines the increase is necessary to provide
38 indemnification to any student or a student's parent or legal guardian who may suffer a loss of
39 tuition, fees, or any other instructional-related expenses paid to the school.

40 **(d)** An applicant for a proprietary school license who is unable to secure a bond may
41 seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond
42 alternatives set forth in this subsection. With the approval of the Board, an applicant may
43 obtain in lieu of a bond any of the following:

44 **(1)** An assignment of a savings account in an amount equal to the bond required
45 (i) that is in a form acceptable to the Board, (ii) that is executed by the
46 applicant, (iii) that is executed by a state or federal savings and loan
47 association, state bank, or national bank that is doing business in North
48 Carolina and whose accounts are insured by a federal depositors corporation,
49 and (iv) for which access to the account in favor of the State is subject to the
50 same conditions as for a bond in subsection (c) of this section.

(2) A certificate of deposit (i) that is executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation, (ii) that is payable to North Carolina, (iii) that, if a negotiable certificate of deposit, is unrestrictedly endorsed to the Board or, if a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board, and (iv) for which access to the certificate of deposit in favor of the State is subject to the same conditions as for a bond in subsection (c) of this section.

"§ 115F-60. Student Protection Fund; payments; assessments.

(a) The Student Protection Fund is established in the Department of State Treasurer as a statewide fee-supported fund collected pursuant to this section. Interest accruing to the Student Protection Fund shall be credited to the Fund. The Board shall administer the Student Protection Fund in accordance with this section. The purpose of the Student Protection Fund is to compensate students enrolled in a proprietary school licensed under this Chapter who have suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment if the school ceases to operate for any reason, including bankruptcy, foreclosure, or the suspension, revocation, or nonrenewal of a school's license.

(b) Prior to its first year of operation in the State, each proprietary school shall pay an initial amount of one thousand two hundred fifty dollars (\$1,250) into the Student Protection Fund.

(c) Each proprietary school operating in the State shall pay annually into the Student Protection Fund an amount based on its annual gross tuition revenue generated in the State as follows:

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

(d) If the Student Protection Fund balance is equal to or exceeds the fund cap amount, the Board shall suspend payments into the Fund for schools that have been continuously licensed in the State for more than eight years. The Board shall require schools to resume payments into the Student Protection Fund if the balance of the Fund is less than the catastrophic loss amount.

(e) If claims against the Student Protection Fund exceed the catastrophic loss amount, the Board may assess additional fees to the extent necessary to compensate students qualified for repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by subsection (c) of this

1 section. If the amount of the catastrophic assessment is insufficient to cover qualified claims,
2 the Board shall develop a method of allocating funds among claims.

3 (f) The full and timely payment into the Student Protection Fund pursuant to this
4 section is a condition of licensure.

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

7 (h) A student or the student's parent or guardian who has suffered a loss of tuition, fees,
8 or any other instructional-related expenses paid to a proprietary school licensed under this
9 Chapter by reason of the school ceasing to operate for any reason, including bankruptcy,
10 foreclosure, or the suspension, revocation, or nonrenewal of a school's license may qualify for
11 repayments under the Student Protection Fund. The Board first must issue repayment from the
12 bonds issued under G.S. 115F-55. If the Student Protection Fund is insufficient to cover the
13 qualified claims, the Board shall develop a method of allocating funds among claims.

14 (i) The Board shall adopt rules for the implementation of this section.

15 **"§ 115F-65. Contracts with unlicensed schools and evidences of indebtedness made null**
16 **and void.**

17 All contracts entered into by a proprietary school with students or prospective students and
18 all promissory notes or other evidence of indebtedness taken in lieu of cash payments by a
19 proprietary school shall be null and void unless the school is duly licensed as required by this
20 Chapter.

21 **"§ 115F-70. Operating school without license or bond; misdemeanor.**

22 Any person, or a member of any association of persons or an officer of any corporation,
23 who opens and operates a proprietary school without first obtaining the license required by this
24 Chapter, executing the bond required under G.S. 115F-55, and paying the assessments into the
25 Student Protection Fund under G.S. 115F-60 shall be guilty of a Class 3 misdemeanor. Each
26 day the school continues to be open and operated shall constitute a separate offense.

27 **"§ 115F-75. Enforcement; injunctive relief; civil penalties; disciplinary costs.**

28 (a) The Board or the Board's authorized representatives may make application to
29 superior court for an order enjoining a violation of this Chapter. Upon a showing by the Board
30 that a person has violated or is about to violate this Chapter, the court may grant an injunction
31 or restraining order or take any further action it deems appropriate. The court is empowered to
32 grant the requested relief regardless of whether criminal prosecution or other actions have been
33 or may be instituted as a result of the violation. Actions under this section shall be brought in
34 the county where the defendant resides or maintains his or her principal place of business or
35 where the alleged acts occurred.

36 (b) The Board may assess a civil penalty not in excess of one thousand dollars (\$1,000)
37 for the violation of any section of this Chapter or the violation of any rules adopted by the
38 Board to implement this Chapter. The continuation of the same act for which the penalty is
39 imposed shall not be the basis for an additional penalty unless the penalty is imposed against
40 the same party who has repeated the same act for which the discipline has previously been
41 imposed. The clear proceeds of any civil penalty assessed under this section shall be remitted to
42 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The Board shall
43 establish a schedule of civil penalties for violations of this Chapter. The assessment of civil
44 penalties shall be subject to the provisions of Article 3 of Chapter 150B of the General Statutes.

45 (c) Before imposing and assessing a civil penalty under this section, the Board shall
46 consider at least the following factors:

47 (1) The nature, gravity, and persistence of the particular violation.

48 (2) The appropriateness of the imposition of a civil penalty when considered
49 alone or in combination with other punishment.

50 (3) Whether the violation was willful and malicious.

1 (4) Any other factors that would tend to mitigate or aggravate the violations
2 found to exist.

3 (d) The Board may assess the costs of enforcement actions taken under this Chapter,
4 including reasonable attorneys' fees, and transcriptions of a disciplinary hearing held by the
5 Board or the Office of Administrative Hearings, to include the recording of the hearing by a
6 court reporter and transcription of the proceeding against any person found to be in violation of
7 this Chapter or rules adopted by the Board."

8 **SECTION 3.** G.S. 86A-22(7)a. reads as rewritten:

9 "(7) a. Each school shall provide a guaranty bond unless the school has
10 already provided a bond or an alternative to a bond under
11 G.S. ~~115D-95~~.G.S. 115F-55.

12 The North Carolina State Board of Barber Examiners may revoke
13 the approval of a school that fails to maintain a bond or an alternative
14 to a bond pursuant to this subdivision or
15 G.S. ~~115D-95~~.G.S. 115F-55."

16 **SECTION 4.** G.S. 88B-17(a) reads as rewritten:

17 "(a) Each private cosmetic art school shall provide a guaranty bond unless the school has
18 already provided a bond or an alternative to a bond under G.S. ~~115D-95~~.G.S. 115F-55. The
19 Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that
20 fails to maintain a bond or an alternative to a bond pursuant to this section or
21 G.S. ~~115D-95~~.G.S. 115F-55."

22 **SECTION 5.** G.S. 90-171.55(b)(1) reads as rewritten:

23 "(b) (1) Each nurses aide training program, except for those operated by (i)
24 institutions under the Board of Governors of The University of North
25 Carolina, (ii) institutions of the North Carolina Community College System,
26 (iii) public high schools, and (iv) hospital authorities acting pursuant to
27 G.S. 131E-23(31), shall provide a guaranty bond unless the program has
28 already provided a bond or an alternative to a bond under
29 G.S. ~~115D-95~~.G.S. 115F-55. The Board of Nursing may revoke the approval
30 of a program that fails to maintain a bond or an alternative to a bond
31 pursuant to this subsection or G.S. ~~115D-95~~.G.S. 115F-55."

32 **SECTION 6.** G.S. 93A-32(2) reads as rewritten:

33 "(2) "Private real estate school" means any real estate educational entity which is
34 privately owned and operated by an individual, partnership, corporation,
35 limited liability company, or association, and which conducts, for a profit or
36 tuition charge, real estate broker prelicensing or postlicensing courses
37 prescribed by G.S. 93A-4(a) or (a1), provided that a proprietary business or
38 trade school licensed by the ~~State~~North Carolina Board of Community
39 ~~Colleges~~Proprietary Schools under G.S. ~~115D-90~~G.S. 115F-40 to conduct
40 courses other than those real estate courses described herein shall not be
41 considered to be a private real estate school."

42 **SECTION 7.** G.S. 116-15 reads as rewritten:

43 "**§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.**

44 (a1) The General Assembly of North Carolina in recognition of the importance of higher
45 education and of the particular significance attached to the personal credentials accessible
46 through higher education and in consonance with statutory law of this State making unlawful
47 any "unfair or deceptive acts or practices in the conduct of any trade or commerce," hereby
48 declares it the policy of this State that all institutions conducting post-secondary degree activity
49 in this State that are not subject to Chapter ~~115-01~~~~115D~~115C, 115D, or 115F of the General
50 Statutes, nor some other section of Chapter 116 of the General Statutes shall be subject to

1 licensure under this section except as the institution or a particular activity of the institution
2 may be exempt from licensure by one or another provision of this section.

3 ...
4 (f1) (1) A guaranty bond is required for each institution that is licensed. The Board
5 may revoke the license of an institution that fails to maintain a bond
6 pursuant to this subsection.

7 If the institution has provided a bond pursuant to
8 ~~G.S. 115D-95~~, G.S. 115F-55, the Board may waive the bond requirement
9 under this subsection. The Board may not waive the bond requirement under
10 this subsection if the applicant has provided an alternative to a guaranty
11 bond under ~~G.S. 115D-95(e)~~, G.S. 115F-55(d).

12"

13 **SECTION 8.** G.S. 126-5(c2)(4) reads as rewritten:

14 "(4) Employees of the Office of Proprietary Schools whose salaries are fixed by
15 the ~~State~~ North Carolina Board of Proprietary Schools in accordance with the
16 provisions of ~~G.S. 115D-89.2~~, G.S. 115F-30."

17 **SECTION 9.** Notwithstanding G.S. 115F-20, as enacted by this act, and Article 8
18 of Chapter 115D of the General Statutes, the members serving on the State Board of
19 Proprietary Schools as of the date this act becomes law who were appointed pursuant to
20 G.S. 115D-89.1 shall (i) serve the remainder of their terms as members of the North Carolina
21 Board of Proprietary Schools established pursuant to Chapter 115F of the General Statutes, as
22 enacted by this act, and (ii) assume the advisory duties and responsibilities of the State Board
23 of Proprietary Schools under Article 8 of Chapter 115D of the General Statutes in regard to any
24 proprietary school operating in this State under a license approved on or before the date this act
25 becomes law and June 30, 2017. As the terms of the members serving on the North Carolina
26 Board of Proprietary Schools in accordance with this section expire, or when a vacancy occurs
27 prior to the expiration of a term, members on the Board shall be appointed in accordance with
28 G.S. 115F-20, as enacted by this act.

29 **SECTION 10.** The North Carolina Board of Proprietary Schools may enter into an
30 agreement with the State Board of Community Colleges to provide that the Community
31 Colleges System Office act as the fiscal agent for the North Carolina Board of Proprietary
32 Schools and for the Office of Proprietary Schools for the purpose of administering the
33 Commercial Education Fund established under G.S. 115F-35, formerly administered under
34 G.S. 115D-92, and the Student Protection Fund established under G.S. 115F-60, formerly
35 administered under G.S. 115D-95.1, until such time those funds may be established in accounts
36 with the Department of State Treasurer under the sole supervision and direction of the North
37 Carolina Board of Proprietary Schools in accordance with Chapter 115F of the General
38 Statutes.

39 **SECTION 11.** Notwithstanding G.S. 115F-35, as enacted by this act, the fees for
40 applications, initial licensure, license renewal, and inspections performed of proprietary schools
41 pursuant to this Chapter for the North Carolina Board of Proprietary Schools shall be as
42 follows, until fees are established under G.S. 115F-35 in accordance with Article 2A of Chapter
43 150B of the General Statutes:

- 44 (1) Initial license. – Three thousand two hundred dollars (\$3,200), plus fifty
45 dollars (\$50.00) per program submitted for licensure.
46 (2) Annual license renewal. – One thousand seven hundred dollars (\$1,700),
47 plus fifty dollars (\$50.00) per licensed program renewed and two hundred
48 dollars (\$200.00) for each new program submitted for licensure. A late fee of
49 five hundred dollars (\$500.00) may be assessed for any license renewal
50 application postmarked after March 15.

- 1 (3) Program additions submitted outside of the annual license renewal period. –
2 Two hundred dollars (\$200.00).
3 (4) Program revisions. – Two hundred dollars (\$200.00).
4 (5) School relocations. – Five hundred dollars (\$500.00).
5 (6) Remote sites. – One thousand dollars (\$1,000) initial site fee, plus an annual
6 renewal fee of seven hundred fifty dollars (\$750.00).
7 (7) Site assessments to verify compliance with statutes or rules or to approve
8 program additions of changes. – Five hundred dollars (\$500.00).
9 **SECTION 12.** This act is effective 90 days after it becomes law and applies to any
10 person applying for an initial license or the renewal of a license for a proprietary school on or
11 after that date.