

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE DRH10748-LE-236 (03/25)

Short Title: Proprietary School Bond Requirement.

(Public)

Sponsors: Representative Tolson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE BOND REQUIREMENTS FOR PROPRIETARY SCHOOLS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 115D-95 reads as rewritten:

5 "§ 115D-95. Bonds required.

6 (a) A guaranty bond is required for each school that is licensed to operate: Provided,
7 however, a school that is unable to secure a bond may, with the consent of the State Board of
8 Community Colleges, provide an alternative to a guaranty bond, as provided in subsection (c)
9 of this section.

10 The State Board may revoke the license of a school that fails to maintain a bond or an
11 alternative to a bond, pursuant to this section.

12 (b) (1) When application is made for a license or license renewal, the applicant shall
13 file a guaranty bond with the clerk of the superior court of the county in
14 which the school will be located. The bond shall be in favor of the students.
15 The bond shall be executed by the applicant as principal and by a bonding
16 company authorized to do business in this State. The bond shall be issued in
17 the name of the North Carolina State Board of Community Colleges. The
18 bond shall be conditioned to provide indemnification-indemnification, in the
19 form of a monetary refund or by providing instruction, to any student, or his
20 or her parent or guardian, who has suffered a loss of tuition—or any
21 fees tuition, fees, or any other instruction-related expense paid to the school
22 by reason of the failure of the school to offer or complete student instruction,
23 academic services, or other goods and services related to course enrollment
24 for any reason, including the suspension, revocation, or nonrenewal of a
25 school's license, bankruptcy, foreclosure, or the school ceasing to operate.

26 (2) The bond shall be in an amount determined by the State Board of
27 Community Colleges to be adequate to provide indemnification to any
28 student, or his parent or guardian, under the terms of the bond. ~~The bond~~
29 ~~amount for a school shall be at least equal to the maximum amount of~~
30 ~~prepaid tuition held at any time during the last fiscal year by the school. The~~
31 ~~bond amount shall also be at least ten thousand dollars (\$10,000). The bond~~
32 shall be in an amount equal to the greatest amount of unearned tuition and
33 fees paid to the school at any given time. For the purpose of this section,
34 "unearned tuition and fees paid to the school" means the tuition and fees paid



1 by any student multiplied by the percentage of instruction paid for but not
2 received by the student.

3 The school shall assess the bond amount quarterly and report that
4 assessment to the State Board acting by and through the President of the
5 Community College System. If an assessment requires an increase in the
6 bond held by the school of ten percent (10%) or more, the school shall
7 immediately increase the bond amount and report to the State Board acting
8 by and through the President of the Community College System. Bond
9 amounts shall also be assessed pursuant to this subdivision and pursuant to
10 the rules of the State Board at the time of the school's annual license renewal
11 and increased regardless of the amount of the change. The bond amount
12 shall be at least twenty-five thousand dollars (\$25,000). Any school
13 operating with a bond in an amount insufficient to indemnify any student or
14 his or her parent or guardian shall be subject to suspension or revocation of
15 its license in accordance with G.S. 115D-93.

16 Each application for a license or report of a quarterly adjustment to the
17 bond amount shall include a letter signed by an authorized representative of
18 the school showing in detail the calculations made and the method of
19 computing the amount of the bond, pursuant to this subdivision and the rules
20 of the State Board. If the State Board finds that the calculations made and
21 the method of computing the amount of the bond are inaccurate or that the
22 amount of the bond is otherwise inadequate to provide indemnification under
23 the terms of the bond, the State Board may require the applicant to provide
24 an additional bond.

- 25 (3) The bond shall remain in force and effect until cancelled by the guarantor.
26 The guarantor may cancel the bond upon ~~30~~90 days notice to the State
27 Board of Community Colleges. Cancellation of the bond shall not affect any
28 liability incurred or accrued prior to the termination of the notice period.

29 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
30 from the State Board of Community Colleges and approval of one of the guaranty bond
31 ~~alternatives~~alternatives set forth in this subsection. With the approval of the State Board, an
32 applicant may file with the clerk of the superior court of the county in which the school will be
33 located, in lieu of a bond:

- 34 (1) An assignment of a savings account in an amount equal to the bond required
35 (i) which is in a form acceptable to the State Board of Community Colleges;
36 (ii) which is executed by the applicant; and (iii) which is executed by a state
37 or federal savings and loan association, state bank, or national bank, that is
38 doing business in North Carolina and whose accounts are insured by a
39 federal depositors corporation; and (iv) for which access to the account in
40 favor of the State of North Carolina is subject to the same conditions as for a
41 bond in subsection (b) of this section.
- 42 (2) A certificate of deposit (i) which is executed by a state or federal savings and
43 loan association, state bank, or national bank, which is doing business in
44 North Carolina and whose accounts are insured by a federal depositors
45 corporation; and (ii) which is either payable to the State of North Carolina,
46 unrestrictively endorsed to the State Board of Community Colleges; in the
47 case of a negotiable certificate of deposit, is unrestrictively endorsed to the
48 State Board of Community Colleges; or in the case of a nonnegotiable
49 certificate of deposit, is assigned to the State Board of Community Colleges
50 in a form satisfactory to the State Board; and (iii) for which access to the

1 certificate of deposit in favor of the State of North Carolina is subject to the
2 same conditions as for a bond in subsection (b) of this section."
3 **SECTION 2.** This act becomes effective July 1, 2009.