

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS55321-LUF-101 (03/10)

Short Title: Amend Alarm Systems Licensing Act.

(Public)

Sponsors: Senator Snow.

Referred to:

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

5 The General Assembly of North Carolina enacts:

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

7 "**§ 74D-2. Licenses required.**

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

- 13 (1) ~~sells~~ Sells or attempts to sell an alarm system device by engaging in a
14 personal solicitation at a residence or business ~~when combined with personal~~
15 ~~inspection of the interior of the residence or business to advise~~ advise,
16 design, or consult on specific types and specific locations of alarm system
17 ~~devices, devices.~~
18 (2) ~~installs, Installs,~~ services, monitors—monitors, or responds to electrical,
19 electronic or mechanical alarm signal devices, burglar alarms, ~~television~~
20 ~~cameras or still cameras~~ monitored or recorded access control, or cameras
21 used to detect burglary, breaking or entering, intrusion, shoplifting,
22 pilferage, ~~or theft, theft,~~ or other unauthorized or illegal activity.

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

29 (b) Repealed by Session Laws 1989, c. 730, s. 1.

- 30 (c) (1) No business entity shall do business under this Chapter unless the business
31 entity has in its employ a designated resident qualifying agent who meets the
32 requirements for a license issued under and who is, in fact, licensed under
33 the provisions of this Chapter, unless otherwise approved by the Board.
34 Provided, however, that this approval shall not be given unless the business
35 entity has and continuously maintains in this State a registered agent who



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1 shall be an individual resident in this State. Service upon the registered agent
2 appointed by the business entity of any process, notice or demand required
3 by or permitted by law to be served upon the business entity by the Alarm
4 Systems Licensing Board shall be binding upon the business entity and the
5 licensee. Nothing herein contained shall limit or affect the right to serve any
6 process, notice or demand required or permitted by law to be served upon a
7 business entity in any other manner or hereafter permitted by law.

8 (2) For the purposes of this Chapter, a "qualifying agent" means an individual in
9 a management position who is licensed under this Chapter and whose name
10 and address have been registered with the board.

11 (3) In the event that the qualifying agent upon whom the business entity relies in
12 order to do business ceases to perform his duties as qualifying agent, the
13 business entity shall notify the board in writing within 10 working days. The
14 business entity must obtain a substitute qualifying agent within ~~30~~90 days
15 after the original qualifying agent ceases to serve as qualifying agent ~~unless~~
16 ~~the board, in its discretion, and upon written request of the business entity,~~
17 ~~extends this period for good cause for a period of time not to exceed three~~
18 ~~months-agent.~~

19 (4) The license certificate shall list the name of ~~at least one designated~~the
20 qualifying agent. No licensee shall serve as the qualifying agent for more
21 than one business entity without the prior approval of the Board.

22 (5) The Department of Justice may provide a criminal record check to the Alarm
23 Systems Licensing Board for a person who has applied for a new or renewal
24 license, registration, certification, or permit through the Alarm Systems
25 Licensing Board. The Board shall provide to the Department of Justice,
26 along with the request, the fingerprints of ~~the applicant, a new applicant, and~~
27 the Department of Justice shall provide a criminal record check based upon
28 the applicant's fingerprints. The Board may request a criminal record check
29 from the Department of Justice for a renewal applicant based upon the
30 applicant's fingerprints in accordance with policy adopted by the Board. The
31 Board shall provide any additional information required by the Department
32 of Justice, and a form signed by the applicant consenting to the check of the
33 criminal record and to the use of the fingerprints and other identifying
34 information required by the State or national repositories. The applicant's
35 fingerprints shall be forwarded to the State Bureau of Investigation for a
36 search of the State's criminal history record file, and the State Bureau of
37 Investigation shall forward a set of the fingerprints to the Federal Bureau of
38 Investigation for a national criminal history check. The Board shall keep all
39 information pursuant to this subdivision privileged, in accordance with
40 applicable State law and federal guidelines, and the information shall be
41 confidential and shall not be a public record under Chapter 132 of the
42 General Statutes.

43 The Department of Justice may charge each applicant a fee for
44 conducting the checks of criminal history records authorized by this
45 subdivision.

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

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

50 (2) That the applicant is of good moral character and temperate habits. The
51 following shall be prima facie evidence that the applicant does not have

1 good moral character or temperate habits: conviction by any local, State,
2 federal, or military court of any crime involving the illegal use, carrying, or
3 possession of a firearm; conviction of any crime involving the illegal use,
4 possession, sale, manufacture, distribution or transportation of a controlled
5 substance, drug, narcotic, or alcoholic beverages; conviction of a crime
6 involving felonious assault or an act of violence; conviction of a crime
7 involving unlawful breaking or entering, burglary, larceny, or of any offense
8 involving moral turpitude; or a history of addiction to alcohol or a narcotic
9 drug; provided that, for purposes of this subsection, "conviction" means and
10 includes the entry of a plea of guilty, plea of no contest, or a verdict rendered
11 in open court by a judge or jury;

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

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

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

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

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

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

36 "...."

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

38 **"§ 74D-5.2. Investigative powers of the Attorney General.**

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

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

46 **"§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices; fees.**

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

- 49 (1) The name of the licensee;
50 (2) The name under which the licensee is to operate; and
51 (3) The number and expiration date of the license.

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

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

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

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

- 19 (1) A nonrefundable initial license application fee in an amount not to exceed
20 one hundred fifty dollars (\$150.00).
- 21 (2) A new or renewal license fee in an amount not to exceed five hundred
22 dollars (\$500.00).
- 23 (3) A late license renewal fee to be paid in addition to the renewal fee due in an
24 amount not to exceed one hundred dollars (\$100.00), if the license has not
25 been renewed on or before the expiration date of the license.
- 26 (4) A new or renewal registration fee in an amount not to exceed fifty dollars
27 (\$50.00) plus any fees charged to the board for background checks by the
28 State Bureau of Investigation.
- 29 (5) A fee for reregistration of an employee who changes employment to another
30 licensee, not to exceed ten dollars (\$10.00).
- 31 (6) A branch office certificate fee not to exceed one hundred fifty dollars
32 (\$150.00).
- 33 (7) A fee not to exceed fifty dollars (\$50.00) for each reconsideration of a
34 license or registration permit that has been filed or returned to the applicant
35 for correctable errors.
- 36 (8) A late registration fee, to be paid in addition to the registration renewal fee,
37 not to exceed twenty dollars (\$20.00) for an application submitted no more
38 than 30 days after the expiration of the registration permit. A registration
39 application submitted more than 30 days after the registration has expired
40 shall be registered as a new applicant.

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

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

- 44 "(a) (1) All licensees of an alarm systems business shall register with the Board
45 within ~~20-30~~ days after the employment begins, all of the licensee's
46 employees that are within the State, unless in the discretion of the Director,
47 the time period is extended for good cause. To register an employee, a
48 licensee shall submit to the Board as to the employee: set(s) of classifiable
49 fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of
50 acceptable quality for identification; and statements of any criminal records
51 ~~obtained from the appropriate authority in each area where the employee has~~

1 ~~resided within the immediately preceding 48 months as deemed appropriate~~
2 ~~by the Board.~~

- 3 (2) Except during the period allowed for registration in subdivision (a)(1) of this
4 section, no alarm systems business may employ any employee unless the
5 employee's registration has been approved by the Board as set forth in this
6 section."

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

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

- 11 (1) Made any false statement or given any false information in connection with
12 any application for a license or registration, or for the renewal or
13 reinstatement of a license or ~~registration;~~registration.
14 (2) Violated any provision of this ~~Chapter;~~Chapter.
15 (3) Violated any rule promulgated by the Board pursuant to the authority
16 contained in this ~~Chapter;~~Chapter.
17 (4) Been convicted of any crime involving moral turpitude or any other crime
18 involving violence or the illegal use, carrying, or possession of a dangerous
19 ~~weapon;~~weapon.
20 (5) Failed to correct business practices or procedures that have resulted in a
21 prior reprimand by the ~~Board;~~Board.
22 (6) Impersonated or permitted or aided and abetted any other person to
23 impersonate a law-enforcement officer of the United States, this State, or
24 any of its political ~~subdivisions;~~subdivisions.
25 (7) Engaged in or permitted any employee to engage in any alarm systems
26 business when not lawfully in possession of a valid license issued under the
27 provisions of this ~~Chapter;~~Chapter.
28 (8) Committed an unlawful breaking or entering, assault, battery, or
29 ~~kidnapping;~~kidnapping.
30 (9) Committed any other act which is a ground for the denial of an application
31 for a license or registration under this ~~Chapter;~~Chapter.
32 (10) ~~Failure—Failed~~ to maintain the certificate of liability required by this
33 ~~Chapter;~~Chapter.
34 (11) Any judgment of incompetency by a court having jurisdiction under Chapter
35 35A or former Chapter 35 of the General Statutes or commitment to a
36 mental health facility for treatment of mental illness, as defined in
37 G.S. 122C-3(21), by a court having jurisdiction under Article 5 of Chapter
38 122C of the General ~~Statutes;~~Statutes.
39 (12) Accepted payment in advance for services not performed within a reasonable
40 time ~~period;~~period.
41 (13) A lack of temperate habits or ~~of~~-good moral character. The acts that are
42 prima facie evidence of lack of temperate habits or ~~of~~-good moral character
43 under G.S. 74D-6(3) are prima facie evidence of the same under this
44 subdivision.
45 (14) Been previously denied a license or registration under this Chapter or
46 previously had a license or registration revoked for cause.
47 (15) Engaged in the alarm systems profession under a name other than the name
48 under which the license was obtained under the provisions of this Chapter.
49 (16) Advertised or solicited business using a name other than that in which a
50 licensed was issued.

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

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

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

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

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

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

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

16 "**§ 74D-14. Proof of licensure to maintain or commence action.**

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

29 **SECTION 9.** The following title under Article 2 of Chapter 74D of the General
30 Statutes reads as rewritten:

31 "Alarm Systems ~~Recovery~~ Education Fund."

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

33 "**§ 74D-30. Alarm Systems ~~Recovery~~ Education Fund created; payment to Fund;**
34 **management; use of funds.**

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

41 (b) ~~Nothing contained in this Article shall limit the authority of the Board to take~~
42 ~~disciplinary action against any licensee under this Chapter, nor shall the repayment in full of all~~
43 ~~obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary~~
44 ~~proceeding brought under this Chapter.~~

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

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

49 (2) The Board shall charge each new applicant for a license fifty dollars
50 (\$50.00), provided that for purposes of this Article a new applicant is hereby
51 defined as an applicant who did not possess a license on July 1, 1985; and

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

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

10 (1) To advance education and research in the alarm systems field for the benefit
11 of those licensed under the provisions of this Chapter and for the
12 improvement of the industry;

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

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

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

19 **SECTION 12.** This act is effective when it becomes law.