

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 327*
Committee Substitute Favorable 4/19/17

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5 **SECTION 1.** Article 8 of Chapter 115D of the General Statutes is repealed.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

35 c. Instruction provided in hotels or other temporary dwelling units or
36 areas.



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

34 **"§ 115F-15. Exemptions.**

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

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

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

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

11 **§ 115F-20. North Carolina Board of Proprietary Schools.**

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

16 (1) Two members appointed by the Governor.

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

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

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

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

27 a. One member who is the owner or director of a proprietary school
28 licensed in the State with a total annual enrollment between 100 and
29 750 students.

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

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

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

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

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

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

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

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

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

8 **"§ 115F-25. Powers and duties of the Board.**

9 The Board shall have the following powers and duties:

10 (1) Administer and enforce the provisions of this Chapter, including all of the
11 following powers:

12 a. Have the powers of a body corporate, including the power to make
13 contracts and to alter the same as may be deemed expedient.

14 b. Be authorized and empowered to rent and lease such property, real or
15 personal, as the Board may deem proper to carry out the purposes
16 and provisions of this Chapter, all or any of them.

17 c. Establish an office for the transaction of its business at such place or
18 places as, in the opinion of the Board, shall be advisable or necessary
19 in carrying out the purposes of this Chapter.

20 d. Be authorized and empowered to pay from the Commercial
21 Education Fund all necessary costs and expenses involved in and
22 incident to the formation, organization, and administration of the
23 Board and all other costs and expenses reasonably necessary or
24 expedient in carrying out and accomplishing the purposes of this
25 Chapter.

26 e. Be authorized and empowered to do any and all other acts and things
27 in this Chapter authorized or required to be done, whether or not
28 included in the general powers listed in this section.

29 (2) Adopt rules in accordance with Chapter 150B of the General Statutes as may
30 be necessary to administer the provisions of this Chapter.

31 (3) Grant and issue licenses to proprietary schools whose sustained curriculum
32 is of a grade equal to that prescribed for similar public schools and
33 educational institutions of the State and that have met the standards set forth
34 by the Board, including offerings, adequate facilities, financial stability,
35 competent personnel, and legitimate operating practices.

36 (4) Formulate the criteria and the standards for the approval of proprietary
37 schools.

38 (5) Provide for adequate investigations of all proprietary schools applying for a
39 license. The Board shall not contract with or employ a person who is
40 employed by a proprietary school licensed by the Board to serve as an
41 investigator or inspector.

42 (6) Issue licenses to those applicants meeting the standards adopted by the
43 Board.

44 (7) Maintain a list of schools licensed under the provisions of this Chapter and
45 make that list available for inspection by the public.

46 (8) Provide for periodic inspection of all schools licensed under the provisions
47 of this Chapter.

48 (9) Oversee the proprietary schools in the State in order to protect the health,
49 safety, and welfare of the public by requiring the proprietary schools to
50 maintain adequate, safe, and sanitary school locations, sufficient and proper
51 facilities and equipment, sufficient and qualified teaching and administrative

1 staff, and satisfactory programs of operation and instruction and to require
2 proprietary schools to carry out advertised promises and contracts made with
3 its students and patrons.

4 (10) Request any occupational licensing or approving board or agency in this
5 State to adopt rules requiring the approval of that board or agency for a
6 course of study. Under these rules, the board or agency shall pass on the
7 adequacy of equipment, curricula, and instructional personnel. The Board
8 may deny approval to a course of study that is not approved by such board or
9 agency.

10 (11) Pursuant to the maximum amounts set forth by this Chapter and other
11 specific authority authorizing fees, establish reasonable fees related to the
12 approval and operation of proprietary schools.

13 **"§ 115F-30. Office of Proprietary Schools.**

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

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

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

27 (1) The number of schools receiving initial licenses during the previous year.

28 (2) A list of all licensed proprietary schools operating in the State.

29 (3) Any school closures during the previous year, including a complete report of
30 actions concerning any catastrophic closures.

31 (4) Any complaints received and the resulting decisions or actions on the
32 complaints.

33 (5) The total fees collected.

34 (6) The balances of the Commercial Education Fund and the Student Protection
35 Fund.

36 (7) A recommendation for the annual projected operating budget.

37 (8) If applicable, a recommendation for an adjustment to the catastrophic loss
38 amount or cap amount for the Student Protection Fund.

39 **"§ 115F-35. Authority to establish and collect fees; Commercial Education Fund; refund**
40 **of fees.**

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

44 (1) Initial license. – Three thousand five hundred twenty dollars (\$3,520), plus
45 fifty-five dollars (\$55.00) per program submitted for licensure.

46 (2) Annual license renewal. – One thousand eight hundred seventy dollars
47 (\$1,870), plus fifty-five dollars (\$55.00) per licensed program renewed and
48 two hundred twenty dollars (\$220.00) for each new program submitted for
49 licensure. A late fee of five hundred fifty dollars (\$550.00) may be assessed
50 for any license renewal application postmarked after March 15.

- 1 (3) Program additions submitted outside of the annual license renewal period. –
2 Two hundred twenty dollars (\$220.00).
3 (4) Program revisions. – Two hundred twenty dollars (\$220.00).
4 (5) School relocations. – Five hundred fifty dollars (\$550.00).
5 (6) Remote sites. – One thousand one hundred dollars (\$1,100) initial site fee,
6 plus an annual renewal fee of eight hundred twenty-five dollars (\$825.00).
7 (7) Site assessments of verify compliance with statutes or rules or to approve
8 program additions of changes. – Five hundred fifty dollars (\$550.00).

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

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

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

17 **§ 115F-40. License required; application for license; school bulletins; requirements for**
18 **issuance of license; license restricted to courses indicated; supplementary**
19 **applications.**

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

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

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

- 32 (1) The title or name of the school or classes and the names and addresses of the
33 owners and of the controlling officers of the school.
34 (2) The general field of instruction.
35 (3) The place or places where the instruction shall be given.
36 (4) A specific listing of the equipment available for instruction in each field.
37 (5) The qualifications of instructors and supervisors.
38 (6) Financial resources available to equip and to maintain the school or classes.
39 (7) A copy of the current bulletin or catalog of the school, which shall be in
40 published form and certified by an authorized official of the school as being
41 current, true, and correct in content and policy. The school bulletin shall
42 contain the following information:
43 a. Identifying data, such as volume number and date of publication.
44 b. Names of the school and its governing body, officials, and faculty.
45 c. A calendar of the school showing legal holidays, beginning and
46 ending dates of each quarter, term, or semester, and other important
47 dates.
48 d. Policy and regulations relative to leave, absences, class cuts,
49 make-up work, tardiness, and interruptions for unsatisfactory
50 attendance.

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

- 1 (4) The school maintains a written record of the previous education and training
2 of the student.
- 3 (5) A copy of the course outline, schedule of tuition, fees, and other charges,
4 regulations pertaining to absences, grading policy, and the rules of operation
5 and conduct shall be furnished to the student upon enrollment.
- 6 (6) Upon completion of training, the student is given a certificate or diploma by
7 the school for work in the approved course or subjects that indicates the
8 training was satisfactorily completed.
- 9 (7) Adequate records, as prescribed by the Board, are kept to show student
10 attendance, progress, or grades, and that satisfactory standards relating to
11 attendance, progress, and conduct are enforced.
- 12 (8) The school complies with all local, city, county, municipal, State, and
13 federal laws and regulations, including fire codes and building and sanitation
14 codes. The Board may require evidence of compliance as is deemed
15 necessary.
- 16 (9) The school is financially sound and capable of fulfilling its commitments for
17 training.
- 18 (10) The school does not exceed its enrollment limitation, as established by the
19 Board.
- 20 (11) The school does not utilize advertising of any type which is erroneous or
21 misleading, either by actual statement, omission, or intimation.
- 22 (12) The school's administrators, directors, owners, and instructors are of good
23 reputation and character.
- 24 (13) Any additional criteria as may be deemed necessary by the Board.
- 25 (e) Any license issued to a proprietary school shall be restricted to the programs of
26 instruction or courses or subjects specifically indicated in the application for a license. The
27 holder of a license shall present a supplementary application, as may be directed by the Board,
28 for approval of additional programs of instruction, courses, or subjects in which it seeks to offer
29 instruction during the effective period of the license.
- 30 **§ 115F-45. Duration and renewal of licenses; notice of changes, including ownership and**
31 **administration; license not transferable.**
- 32 (a) All licenses issued to a proprietary school by the Board shall expire on June 30 each
33 year.
- 34 (b) Unless otherwise prescribed by the Board, licenses shall be renewable annually on
35 July 1 of each year if all of the following conditions are met:
- 36 (1) An application for the renewal of the license has been filed in the form and
37 manner prescribed by the Board.
- 38 (2) The renewal fee has been paid in full.
- 39 (3) The school and its courses, facilities, faculty, and all other operations are
40 found to meet the criteria set forth in the requirements for a school to secure
41 an initial license under this Chapter.
- 42 (c) After a license is granted to any proprietary school by the Board on the basis of its
43 application, the school shall notify the Board immediately of any material changes to the
44 operation of the school or its courses or programs as set forth in the application, including
45 changes in the ownership, administration, location, faculty, or the instructional program, or
46 other changes as may affect significantly the course of instruction offered.
- 47 (d) In the event of the sale or transfer of a proprietary school, a license granted to the
48 original owner or operators of a proprietary school shall not be transferable to subsequent
49 owners or operators. The Board may issue a 90-day temporary operating license to a
50 proprietary school upon its sale or transfer if the school held a valid, current license prior to the

1 sale or transfer and if the Board finds that the school is likely to qualify after the sale or transfer
2 for a license under this Chapter.

3 **"§ 115F-50. Suspension, revocation, or refusal of license; notice and hearing; judicial**
4 **review; grounds.**

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

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

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

15 (1) Violated any of the provisions of this Chapter or any of the rules
16 promulgated by the Board for the administration of this Chapter.

17 (2) Knowingly presented to the Board false or misleading information relating
18 to approval or renewal of a license.

19 (3) Failed or refused to permit authorized representatives of the Board to inspect
20 the school or refused to make available to them at any time upon request full
21 information pertaining to matters within the purview of the Board under the
22 provisions of this Chapter.

23 (4) Perpetrated or committed fraud or deceit in advertising the school or in
24 presenting to the prospective students written or oral information relating to
25 the school, to employment opportunities, or to opportunities for enrollment
26 in other schools upon completion of the instruction offered in the school.

27 (5) Pled guilty, entered a plea of nolo contendere, or been found guilty of a
28 crime involving moral turpitude by a judge or jury in any state or federal
29 court.

30 (6) Failed to provide or maintain premises, equipment, or conditions in a safe
31 and sanitary manner in accordance with such standards of the State or any of
32 its political subdivisions as are applicable to the premises and equipment.

33 (7) During the licensure period, employed teachers, supervisors, or
34 administrators who had not been approved by the Board.

35 (8) During the licensure period, failed to provide and maintain adequate
36 premises, equipment, materials, or supplies or exceeded the maximum
37 enrollment for which the school or class was licensed.

38 (9) During the licensure period, failed to provide and maintain adequate
39 standards of instruction or an adequate and qualified administrative,
40 supervisory, or teaching staff.

41 (10) Failed to pay license or renewal fees.

42 (11) Failed to provide a required bond or bond alternative.

43 (12) Failed to pay assessments into the Student Protection Fund.

44 **"§ 115F-55. Bonds required.**

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

50 (b) An applicant for a proprietary school license shall file a bond with the Board
51 executed by the applicant as a principal and by a bonding company authorized to do business in

1 this State. The bond shall be payable to the Board, shall be conditioned on fulfillment of the
2 school's obligations, and shall remain in effect until cancelled by the bonding company. The
3 bonding company may cancel the bond upon 30 days' written notice to the Board.

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

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

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

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

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

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

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

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

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

49 (2) A certificate of deposit (i) that is executed by a state or federal savings and
50 loan association, state bank, or national bank that is doing business in North
51 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 section. If the amount of the catastrophic assessment is insufficient to cover qualified claims, the Board shall develop a method of allocating funds among claims.

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

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

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

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

11 **"§ 115F-65. Contracts with unlicensed schools and evidences of indebtedness made null**
12 **and void.**

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

17 **"§ 115F-70. Operating school without license or bond; misdemeanor.**

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

23 **"§ 115F-75. Enforcement; injunctive relief; civil penalties; disciplinary costs.**

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

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

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

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

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

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

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

49 (d) The Board may assess the costs of enforcement actions taken under this Chapter,
50 including reasonable attorneys' fees, and transcriptions of a disciplinary hearing held by the
51 Board or the Office of Administrative Hearings, to include the recording of the hearing by a

1 court reporter and transcription of the proceeding against any person found to be in violation of
 2 this Chapter or rules adopted by the Board."

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

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

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

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

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

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

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

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

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

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

38 **"§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.**

39 (a1) The General Assembly of North Carolina in recognition of the importance of higher
 40 education and of the particular significance attached to the personal credentials accessible
 41 through higher education and in consonance with statutory law of this State making unlawful
 42 any "unfair or deceptive acts or practices in the conduct of any trade or commerce," hereby
 43 declares it the policy of this State that all institutions conducting post-secondary degree activity
 44 in this State that are not subject to Chapter ~~115 or 115D~~115C, 115D, or 115F of the General
 45 Statutes, nor some other section of Chapter 116 of the General Statutes shall be subject to
 46 licensure under this section except as the institution or a particular activity of the institution
 47 may be exempt from licensure by one or another provision of this section.

48 ...

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

1 If the institution has provided a bond pursuant to
2 ~~G.S. 115D-95~~, G.S. 115F-55, the Board may waive the bond requirement
3 under this subsection. The Board may not waive the bond requirement under
4 this subsection if the applicant has provided an alternative to a guaranty
5 bond under ~~G.S. 115D-95(e)~~. G.S. 115F-55(d).

6"

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

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

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

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

33 **SECTION 11.** Notwithstanding G.S. 115F-35, as enacted by this act, the fees for
34 applications, initial licensure, license renewal, and inspections performed of proprietary schools
35 pursuant to this Chapter for the North Carolina Board of Proprietary Schools shall be as
36 follows, until fees are established under G.S. 115F-35 in accordance with Article 2A of Chapter
37 150B of the General Statutes:

- 38 (1) Initial license. – Three thousand two hundred dollars (\$3,200), plus fifty
39 dollars (\$50.00) per program submitted for licensure.
- 40 (2) Annual license renewal. – One thousand seven hundred dollars (\$1,700),
41 plus fifty dollars (\$50.00) per licensed program renewed and two hundred
42 dollars (\$200.00) for each new program submitted for licensure. A late fee of
43 five hundred dollars (\$500.00) may be assessed for any license renewal
44 application postmarked after March 15.
- 45 (3) Program additions submitted outside of the annual license renewal period. –
46 Two hundred dollars (\$200.00).
- 47 (4) Program revisions. – Two hundred dollars (\$200.00).
- 48 (5) School relocations. – Five hundred dollars (\$500.00).
- 49 (6) Remote sites. – One thousand dollars (\$1,000) initial site fee, plus an annual
50 renewal fee of seven hundred fifty dollars (\$750.00).

1 (7) Site assessments of verify compliance with statutes or rules or to approve
2 program additions of changes. – Five hundred dollars (\$500.00).
3 **SECTION 12.** Section 1 of this act becomes effective July 1, 2017. The remainder
4 of this act is effective when it becomes law and applies to any person applying for an initial
5 license or the renewal of a license for a proprietary school on or after that date.