

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 673
SENATE BILL 238

AN ACT TO CREATE THE PRIVATE PROTECTIVE SERVICES RECOVERY
FUND.

The General Assembly of North Carolina enacts:

Section. 1. G.S. 74C-1 through G.S. 74C-19 are designated as Article 1 and captioned as follows:

"ARTICLE 1.

Private Protective Services Board."

Sec. 2. General Statutes Chapter 74C is amended by adding a new Article to read:

"ARTICLE 2.

Private Protective Services Recovery Fund.

"§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds. – (a) There is hereby created and established a special fund to be known as the 'Private Protective Services Recovery Fund' (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

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

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

- (1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a one-time fee of fifty dollars (\$50.00);
- (2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars (\$50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and
- (3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars (\$50.00), on July 1 of any year in which the balance of the Fund is less than one hundred thousand dollars (\$100,000), provided that any amount so assessed

will be only so much as is needed to raise the level of the Fund to one hundred thousand dollars (\$100,000), provided further that no such assessment shall be made until after such time as the Fund initially reaches a level of one hundred thousand dollars (\$100,000) from funds collected pursuant to subdivisions (1) and (2) of this subsection.

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

- (1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;
- (2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and
- (3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina.

"§ 74C-31. Application for payment out of Fund; hearing grounds. – (a) The Fund shall serve as a guaranty for the obligations of those licensed under this Chapter. The Fund's liability, as guaranty, is contingent upon a licensee or trainee defaulting upon an obligation owed to a person by the licensee or trainee where said obligation was entered into by the licensee or trainee within the scope of the licensee's or trainee's employment in providing private protective services.

(b) An aggrieved party may petition the Board for a hearing to determine whether or not a licensee or trainee defaulted upon an obligation owed to the aggrieved party by the licensee or trainee; whether, if such an obligation is found, it arose within the licensee's or trainee's scope of employment while providing private protective services; and if so, the amount of damages suffered by the aggrieved party. Said hearing shall be governed by the procedures of Chapter 150A of the General Statutes.

(c) Claims filed under this Chapter may only be brought for obligations incurred on or after July 1, 1983.

(d) Until such time as the Fund reaches one hundred thousand dollars (\$100,000), or at any time the Fund has insufficient assets in excess of one hundred thousand dollars (\$100,000) to pay outstanding claims, the State Treasurer shall not disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment as ordered by the Board which order is dated after July 1, 1983, shall hold a vested right for payment plus interest as provided in G.S. 24-1 once the Fund reaches a sufficient level for payments. Authorized payments which cannot be made due to a lack of funds will be paid as funds become available, beginning with those payments which have been unsatisfied for the longest period of time.

(e) Hearings held pursuant to this Article shall be separate and apart from any hearings authorized pursuant to Article 1 of this Chapter. However, there is no prohibition against, if the Board so desires, holding hearings pursuant to Article 1 and Article 2 at the same location, on the same date, or in front of the same hearing officer provided that in so doing no provisions of Chapter 150A of the General Statutes are violated.

"§ 74C-32. Order directing payment out of Fund. – If the Board finds, after a hearing pursuant to G.S. 74C-31, that the Fund, as guarantor, should make a payment to an aggrieved party, the Board shall enter an order directed to the State Treasurer authorizing payment from the Fund of whatever sum the Board shall find to be payable in accordance with the limitations contained in this Article.

"§ 74C-33. Maximum liability; pro rata distribution. – (a) Payments from the Fund shall be subject to the following limitations:

- (1) The Fund shall not be liable for more than five thousand dollars (\$5,000) per obligation regardless of the number of persons aggrieved; and
- (2) The liability of the Fund shall not exceed in the aggregate ten thousand dollars (\$10,000) for any one licensee or trainee within a single calendar year.

(b) If the maximum liability of the Fund is insufficient to pay in full the valid claims of all aggrieved persons whose claims relate to the same obligation or to the same licensee or trainee, the amount for which the Fund is liable shall be distributed among the claimants in a ratio that their respective claims bear to the total of such valid claims or in such manner as the Board deems equitable. Upon action of the Board or parties, the Board may require all claimants and prospective claimants to be joined in one action to the end that the respective rights of all such claimants to the Fund may be equitably adjudicated and settled."

Sec. 3. G.S. 74C-8(f) is hereby amended on line 7 by deleting the phrase: "furnishing of the required cash bond or surety bond" and inserting in lieu thereof the following: "the required contribution to the Private Protective Services Recovery Fund,".

Sec. 4. G.S. 74C-10 is hereby amended by repealing subsections (a), (b), (c) and (d).

Sec. 5. G.S. 74C-10(h) is amended on line 2 by deleting the words "surety bond and" and is further amended on line 6 by deleting the phrase "bond, insurance certificate, or both." and inserting in lieu thereof the words "insurance certificate."

Sec. 6. G.S. 74C-10(i)(2) is amended on line 2 by deleting the words "bond or".

Sec. 7. G.S. 74C-12(a)(14) is rewritten to read as follows: "Failure to make the required contribution to the Private Protective Services Recovery Fund or to maintain the certificate of liability insurance required by this Chapter;".

Sec. 8. The catch line of G.S. 74C-10 is rewritten to read:

"§ 74C-10. Certificate of liability insurance required; form and approval; suspension for noncompliance."

Sec. 9. G.S. 74C-20 is hereby repealed.

Sec. 10. This act shall become effective July 1, 1983.

In the General Assembly read three times and ratified, this the 1st day of July,
1983.