

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 786
HOUSE BILL 709

AN ACT TO ESTABLISH THE ALARM SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. There is added to the General Statutes a new Chapter to read:
"Chapter 74D.

"Alarm Systems Licensing Act.

"§ 74D-1. Title.—This act may be cited as the Alarm Systems Licensing Act.

"§ 74D-2. Licenses required.—(a) No person, firm, association or corporation shall engage in an alarm systems business without first being licensed in accordance with this act. For purposes of this Chapter an 'alarm systems business' is defined as any person, firm, association or corporation which installs, services, monitors or responds to electrical, electronic or mechanical alarm signal devices, burglar alarms, television cameras or still cameras used to detect burglary, breaking or entering, intrusion, shoplifting, pilferage, or theft, for a fee or other valuable consideration.

(b) Any person in possession of a valid Alarm Systems Business License issued under Chapter 74C of the General Statutes before the enactment of this Chapter shall be issued an appropriate substitute license under this Chapter.

(c) A business entity other than a sole proprietorship shall not do business under this Chapter unless the business entity has in its employ a designated qualifying agent who meets the requirements for a license issued under this Chapter and who is in fact licensed under the provisions of this Chapter. For the purposes of this Chapter, a qualifying agent means an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the board. In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the board within 10 working days. The business entity must obtain a substitute qualifying agent within 30 days after the original qualifying agent ceases to serve as qualifying agent unless the board, in its discretion, extends this period for good cause for a period of time not to exceed three months. The license certificate shall list the name of at least one designated qualifying agent.

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

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

- (2) that the applicant is of good moral character and temperate habits. The following shall be *prima facie* evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary, larceny, or of any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, 'conviction' means and includes the entry of a plea of guilty or a verdict rendered in open court by a judge or jury;
- (3) that the applicant has the necessary training, qualifications and experience to be licensed.

(e) The board may require the applicant to demonstrate his qualifications by oral or written examination, or both.

"§ 74D-3. Exemptions.—The provisions of this Chapter shall not apply to:

- (1) a person or business which sells or manufactures alarm systems, unless such person or business installs, services or responds to alarm systems and thereby obtains knowledge of specific applications;
- (2) installation, servicing or responding to fire alarm systems or any alarm device which is installed in a motor vehicle, aircraft or boat;
- (3) installation of an alarm system on property owned by or leased to the installer; and
- (4) an alarm monitoring company located in another state which does not conduct any business through a personal representative present in this State but which solicits and conducts business solely through interstate communication facilities such as telephone messages, earth satellite relay stations and the United States postal service.

"§ 74D-4. Alarm Systems Licensing Board established; members; terms; vacancies; compensation; officers; meetings.—(a) The Alarm Systems Licensing Board is hereby established.

(b) The board shall consist of five members: the Attorney General or his designee; one person appointed by the Governor who shall be licensed under this Chapter; one person appointed by the Governor who shall be a public member; one person appointed by the General Assembly upon the recommendation of the Lieutenant Governor under G.S. 120-121 who shall be licensed under this Chapter; and one person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121 who shall be a public member.

(c) Each member shall be appointed for a term of three years and shall serve until a successor is installed. No member shall serve more than two complete consecutive terms. The initial appointments shall be made by October 1, 1983. By October 1, 1986,

the General Assembly shall appoint upon the recommendation of the Speaker of the House of Representatives under G.S. 120-121 a successor to its licensed appointment who also shall be licensed under this Chapter and shall appoint upon the recommendation of the Lieutenant Governor under G.S. 120-121 a successor to its public appointment who also shall be a public member. Every three years thereafter the recommendation of the Lieutenant Governor and of the Speaker of the House of Representatives with respect to the licensed and public status of the persons they recommend shall continue likewise to alternate.

(d) A vacancy on the board shall be filled for the unexpired term by the original appointing authority. Vacancies in legislative appointments shall be filled under G.S. 120-122. A vacancy may be created by removal of a board member, either at the pleasure of the original appointing authority or by the remaining members of the board for misconduct, incompetence or neglect of duty. A board member may only be removed by remaining board members pursuant to a hearing at which the member subject to removal has an opportunity to be heard.

(e) Compensation, per diem and reimbursement for board members shall be as provided in G.S. 93B-5, except that board members who are also State or full-time salaried public officers or employees shall only receive the travel allowances set forth in G.S. 138-6.

(f) The board shall have a chairman, who shall be appointed by the Governor and shall serve at his pleasure.

(g) The board shall meet at the call of the chairman or a majority of the members of the board. The board shall adopt rules governing the call and conduct of its meetings. A majority of the current board membership constitutes a quorum.

"§ 74D-5. Powers of the board.—(a) In addition to the powers conferred upon the board elsewhere in this Chapter, the board shall have the power to:

- (1) promulgate rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter;
- (2) determine minimum qualifications and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;
- (3) conduct investigations regarding alleged violations and make evaluations as may be necessary to determine if licensees and registrants under this Chapter are complying with the provisions of this Chapter;
- (4) adopt and amend bylaws, consistent with law, for its internal management and control;
- (5) investigate and approve individual applicants to be licensed or registered according to this Chapter;
- (6) deny, suspend, or revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter or the rules established by the board. The

denial, suspension, or revocation of such license shall be in accordance with Chapter 150A of the General Statutes of North Carolina;

(7) issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. 5A-21 et seq. for acts occurring in matters pending before the board which would constitute civil contempt if the acts occurred in an action pending in court.

(b) The chairman of the board or his representative designated to be a hearing officer may conduct any hearing called by the board for the purpose of denial, suspension, or revocation of a license or registration under this Chapter.

"§ 74D-6. Denial of a license.—Upon a finding that the applicant meets the requirements of G.S. 74D-2(d) and (e), the board shall determine whether the applicant shall receive a license. The grounds for denial of a license include:

- (1) commission of some act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this Chapter;
- (2) conviction of a crime involving fraud;
- (3) lack of good moral character or temperate habits. The following shall be *prima facie* evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary or larceny or of any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection 'conviction' means and includes the entry of a plea of guilty or a verdict rendered in open court by a judge or jury;
- (4) previous denial of a license under this Chapter or previous revocation of a license for cause;
- (5) knowingly making any false statement or misrepresentation in the license application.

"§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices; fees.—(a) The license when issued shall be in such form as may be determined by the board and shall state:

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

(b) The license shall be issued for a term of one year. Each license must be renewed before expiration of the term of the license. Following issuance, the license

shall at all times be posted in a conspicuous place in the principal place of business of the licensee. A license issued under this Chapter is not assignable.

(c) No licensee shall engage in any business regulated by this Chapter under a name other than the licensee name which appears on the certificate issued by the board or the name of a business entity which the licensee has registered with the board.

(d) Any branch office of an alarm systems business shall be properly licensed. A separate license, stating the location and licensed qualifying agent, shall be posted at all times in a conspicuous place in each branch office. Every business covered under the provisions of this Chapter shall file in writing with the board the addresses of each of its branch offices, if any, within 10 working days after the establishment, closing, or changing of the location of any branch office. A licensed qualifying agent may be responsible for more than one office, in the discretion of the board.

(e) The board is authorized to charge reasonable application and license fees as follows:

- (1) a nonrefundable initial application fee in an amount not to exceed seventy-five dollars (\$75.00);
- (2) a new or renewal license fee in an amount not to exceed one hundred fifty dollars (\$150.00);
- (3) a late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars (\$100.00), if the license has not been renewed on or before the expiration date of the license.
- (4) a registration fee in an amount not to exceed fifteen dollars (\$15.00) plus any fees charged to the board for background checks by the State Bureau of Investigation;
- (5) a fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars (\$10.00).

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

"§ 74D-8. Registration of persons employed; temporary employment.-(a) All licensees, upon or before the beginning of employment of an employee, shall furnish the board with the following: two sets of classifiable fingerprints on standard F.B.I. applicant cards; two recent photographs of acceptable quality for identification; and statements of any criminal records obtained from county sheriff, chief of police, or clerk of superior court in each county in North Carolina where the employee has resided within the immediately preceding 24 months.

(b) The board shall be notified in writing of the termination of any employee registered under this Chapter within 10 days after the termination.

(c) The board shall issue an identification card to each employee of a licensee who is registered under this Chapter. The registration card shall expire one year after its date of issuance and shall be renewed before the expiration of the term of the registration. If a registered person changes employment to another licensee, the registration card may remain valid; however, persons changing employment must pay the fee authorized by G.S. 74D-7(e)(5).

"§ 74D-9. Bond and certificate of liability insurance required; form and approval; action on bonds; suspension for noncompliance.—(a) No licensee or applicant for a license shall be licensed under this Chapter unless the licensee or applicant for a license files with the board and maintains a surety bond executed by a surety company authorized to do business in this State in a sum of not less than five thousand dollars (\$5,000) or a cash bond, in lieu of the surety bond in a sum of not less than five thousand dollars (\$5,000), to protect the public from the wrongful or illegal acts of the bond principal or his agents operating in the course and scope of his or her agency.

(b) The bond shall be taken in the name of the people of the State of North Carolina. Every person injured by wrongful or illegal acts of the principal or his agents operating in the course and the scope of his or her agency may bring an action on the bond in his or her name to recover damages suffered by reason of such wrongful act. Provided, however, the aggregate liability of the surety for all breaches of the condition of bond shall, in no event, exceed the sum of said bond.

(c) The surety on the bond shall have a right to cancel such bond upon giving a 30-day notice to the board. Provided, however, that such cancellation shall not affect any liability on the bond which accrued prior thereto. The bond shall be approved by the board as to form, execution, and sufficiency of the sureties thereon.

(d) No license shall be issued under this act unless the applicant files with the board evidence of a policy of liability insurance which policy must provide for the following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency.

(e) An insurance carrier shall have the right to cancel such policy of liability insurance upon giving a 30-day notice to the board. Provided, however, that such cancellation shall not affect any liability on the policy which accrued prior thereto. The policy of liability shall be approved by the board as to form, execution, and terms thereon.

(f) Every licensee shall at all times maintain on file with the board the surety bond and certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be reinstated until an application therefor, in the form prescribed by the board, is filed together with a proper bond, insurance certificate, or both.

"§ 74D-10. Suspension or revocation of licenses; appeal.—(a) The board may, after notice and an opportunity for hearing, suspend or revoke a license issued under this Chapter if it is determined that the licensee has:

- (1) made any false statement or given any false information in connection with any application for a license or for the renewal or reinstatement of a license;
- (2) violated any provision of this Chapter;
- (3) violated any rule promulgated by the board pursuant to the authority contained in this Chapter;
- (4) been convicted of any crime involving moral turpitude or any other crime involving violence or the illegal use, carrying, or possession of a dangerous weapon;
- (5) failed to correct business practices or procedures that have resulted in prior reprimands by the board;
- (6) impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, or any of its political subdivisions;
- (7) engaged in or permitted any employee to engage in an alarm systems business when not lawfully in possession of a valid license issued under the provisions of this Chapter;
- (8) committed an unlawful breaking or entering, assault, battery, or kidnapping;
- (9) committed any other act which is a ground for the denial of an application for a license under this Chapter;
- (10) failure to maintain the cash bond, surety bond, or certificate of liability insurance required by this Chapter;
- (11) any judgment of incompetency by a court having jurisdiction under Chapter 35 of the General Statutes or commitment to a mental health facility for treatment of mental illness, as defined in G.S. 122-36(d), by a court having jurisdiction under Article 5A of Chapter 122 of the General Statutes.

(b) The revocation or suspension of a license by the board as provided in subsection (a) shall be in writing, stating the grounds upon which the board decision is based. The aggrieved person shall have the right to appeal from such decision as provided in Chapter 150A of the General Statutes.

"§ 74D-11. Enforcement.—(a) The board is authorized to apply in its own name to any judge of the Superior Court of the General Court of Justice for an injunction in order to prevent any violation or threatened violation of the provisions of this Chapter.

(b) Any person, firm, association, or corporation or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a misdemeanor and punishable by a fine of up to five hundred dollars (\$500.00), by imprisonment for a term not to exceed one year, or by both, in the discretion of the court. The Attorney General, or his representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter.

(c) The regulation of alarm systems businesses shall be exclusive to the board; however, any city or county shall be permitted to require an alarm systems business

operating within its jurisdiction to register and to supply information regarding its license, and may adopt an ordinance to require users of alarm systems to obtain revocable permits when alarm usage involves automatic signal transmission to a law enforcement agency.

"§ 74D-12. Severability.—If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

"§ 74D-13. Transfer of funds.—All fees collected pursuant to Chapter 74C of the General Statutes from alarm systems businesses which have not been expended upon the effective date of this act shall be transferred to the board by the Private Protective Services Board for the purpose of defraying the expenses of administering this act."

Sec. 2. G.S. 74C-3(a)(2) is repealed.

Sec. 3. G.S. 74C-3(b) is amended by adding a new subdivision (9) which reads as follows:

"(9) A person engaged in an alarm systems business subject to the provisions of Chapter 74D of the General Statutes of North Carolina."

Sec. 4. When the Alarm Systems Licensing Board is established and members are appointed as provided by G.S. 74D-4, the secretary or an agent of the board shall request all records in the possession of the Private Protective Services Board pertaining to persons licensed and registered by the Private Protective Services Board in the alarm systems business, and the Administrator of said board shall deliver such records to the secretary or agent. This section shall not apply to records and evidence collected and compiled by the Director of the State Bureau of Investigation and his assistants.

Sec. 5. All persons licensed as alarm systems business licensees and persons registered under such licensees pursuant to the provisions of Chapter 74C of the General Statutes of North Carolina shall have such licensure and registration transferred from the Private Protective Services Board to the Alarm Systems Licensing Board as of the effective date of this act. Such licenses and registrations shall remain in effect until the expiration date appearing on the face of the license or registration. All new and renewal licenses and registrations shall be subject to the provisions of this act on the effective date of this act.

Sec. 6. Any bond in effect on the effective date of this act held by a licensee pursuant to G.S. 74C-10 shall remain in effect to satisfy the bonding requirement established by G.S. 74D-9.

Sec. 7. Any policy of liability insurance in effect on the effective date of this act held by a licensee pursuant to G.S. 74C-10 shall remain in effect to satisfy the filing of evidence of a policy of liability insurance requirement established by G.S. 74D-9.

Sec. 8. The administration and operation of the board shall be the responsibility of the Department of Justice, which may allocate funds from income created by alarm systems business licensing to carry out the requirements of this act

until the board becomes financially self-sustaining. All prior fees paid by licensees shall be credited to fees due under this act, prorated on a quarter-year basis.

Sec. 9. G.S. 120-123 is amended by adding a new subdivision to read:

"The Alarm System Licensing Board, as established by G.S. 74D- 4".

Sec. 10. This act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.