

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-557
SENATE BILL 1073**

AN ACT AMENDING THE NORTH CAROLINA ALARM SYSTEMS LICENSING ACT
AND AUTHORIZING THE NORTH CAROLINA ALARM SYSTEMS LICENSING
BOARD TO ESTABLISH A LATE REGISTRATION FEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74D-2 as rewritten by Section 15 of S.L. 2009-328 reads as rewritten:

"§ 74D-2. License requirements.

(a) License Required. – No person, firm, association, corporation, or department or division of a firm, association or corporation, shall engage in or hold itself out as engaging in an alarm systems business without first being licensed in accordance with this Chapter. A department or division of a firm, association, or corporation may be separately licensed under this Chapter if the distinct department or division, as opposed to the firm, association, or corporation as a whole, engages in an alarm systems business. The department or division shall ensure strict confidentiality of private security information, and the private security information of the department or division must, at a minimum, be physically separated from other premises of the firm, association, or corporation. For purposes of this Chapter an "alarm systems business" is defined as any person, firm, association or corporation ~~which~~ that does any of the following:

- (1) ~~sells~~ Sells or attempts to sell an alarm system device by engaging in a personal solicitation at a residence or business ~~when combined with personal inspection of the interior of the residence or business to advise~~ advise, design, or consult on specific types and specific locations of alarm system ~~devices, devices.~~
- (2) ~~installs,~~ Installs, services, ~~monitors~~ monitors, or responds to electrical, electronic or mechanical alarm signal devices, burglar alarms, ~~television cameras or still cameras~~ monitored access control, or cameras used to detect burglary, breaking or entering, intrusion, shoplifting, pilferage, ~~or theft,~~ theft, or other unauthorized or illegal activity. This provision shall not apply to a locking device that records entry and exit data and does not transmit the data in real time to an on-site or off-site monitoring location, provided the installer is duly licensed by the North Carolina Locksmith Licensing Board.

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

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

(c) Qualifying Agent. – A business entity that engages in the alarm systems business is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For



purposes of this Chapter, a 'qualifying agent' is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Board. The requirements are:

- (1) The business entity shall employ a designated resident qualifying agent who meets the requirements for a license issued under and who is, in fact, licensed under the provisions of this Chapter, unless otherwise approved by the Board. Provided, however, that this approval shall not be given unless the business entity has and continuously maintains in this State a registered agent who shall be an individual resident in this State. Service upon the registered agent appointed by the business entity of any process, notice or demand required by or permitted by law to be served upon the business entity by the Alarm Systems Licensing Board shall be binding upon the business entity and the licensee. Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a business entity in any other manner or hereafter permitted by law.
 - (2) Repealed.
 - (3) 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 in writing within 10 working days. The business entity must obtain a substitute qualifying agent within ~~30~~90 days after the original qualifying agent ceases to serve as qualifying agent. ~~agent unless the board, in its discretion, and upon written request of the business entity, extends this period for good cause for a period of time not to exceed three months.~~
 - (4) The license certificate shall list the name of ~~at least one designated~~ the qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without the prior approval of the Board.
- (d) Criminal Record Check. – An applicant must meet all of the following requirements and qualifications determined by a background investigation conducted by the Board in accordance with G.S. 74D-2.1 and upon receipt of an application:
- (1) The applicant is at least 18 years of age.
 - (2) 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, plea of no contest, or a verdict rendered in open court by a judge or jury.
 - (3) The applicant has the necessary training, qualifications and experience to be licensed.
- (e) Examination. – ~~The board~~ Board may require the applicant to demonstrate ~~his~~ the applicant's qualifications by ~~examination, oral or written examination, or both.~~
- (f) Confidentiality. – Except for purposes of administering the provisions of this section and for law enforcement purposes, the home address or telephone number of an applicant,

licensee, or the spouse, children, or parents of an applicant or licensee is confidential under G.S. 132-1.2, and the Board shall not disclose this information unless the applicant or licensee consents to the disclosure. The provisions of this subsection shall not apply when a licensee's home address or telephone number is also the licensee's business address and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor."

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

"The provisions of this Chapter shall not apply to:

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

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

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

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

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

"§ 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~~ a form determined by the Board and shall ~~state~~ state all of the following:

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

(b) The license shall be issued for a term of two years. 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 or names which appear on the certificate issued by the Board.

(d) Any branch office of an alarm systems business shall obtain a branch office certificate. A separate certificate 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. All licensees of a branch office shall notify the Board in ~~writing, within 10 working days after~~ writing before the establishment, closing, or changing of the location of any branch office. A licensed qualifying agent may be responsible for more than one branch office of an alarm systems business with the prior approval of the Board. Temporary approval may be granted by the Director, upon application of the qualifying agent, for a period of time not to

exceed 10 working days after the adjournment of the next regularly scheduled meeting of the Board unless the Board determines that the application should be denied.

(e) The Board may charge the following fees as follows, which must be expended, under the direction of the Board, to defray the expense of administering this Chapter:

- (1) A nonrefundable initial license application fee in an amount not to exceed one hundred fifty dollars (\$150.00).
- (2) A new or renewal license fee in an amount not to exceed five hundred dollars (\$500.00).
- (3) A late license 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 new or renewal registration fee in an amount not to exceed fifty dollars (\$50.00) 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).
- (6) A branch office certificate fee not to exceed one hundred fifty dollars (\$150.00).
- (7) A fee not to exceed fifty dollars (\$50.00) for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.
- (8) A late registration fee, to be paid in addition to the registration renewal fee, not to exceed twenty dollars (\$20.00) for an application submitted no more than 30 days after the expiration of the registration permit. A registration application submitted more than 30 days after the registration has expired shall be registered as a new applicant.

~~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."~~

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

- "(a) (1) All licensees of an alarm systems business shall register with the Board within ~~20-30~~ days after the employment begins, all of the licensee's employees that are within the State, unless in the discretion of the Director, the time period is extended for good cause. To register an employee, a licensee shall submit to the Board as to the employee: set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of acceptable quality for identification; and statements of any criminal records ~~obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months as deemed appropriate by the Board.~~
- (2) Except during the period allowed for registration in subdivision (a)(1) of this section, no alarm systems business may employ any employee unless the employee's registration has been approved by the Board as set forth in this section."

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

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

- (1) Made any false statement or given any false information in connection with any application for a license or registration, or for the renewal or reinstatement of a license or ~~registration; registration.~~
- (2) Violated any provision of this ~~Chapter; Chapter.~~

- (3) Violated any rule promulgated by the Board pursuant to the authority contained in this ~~Chapter;~~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;~~weapon.
- (5) Failed to correct business practices or procedures that have resulted in a prior reprimand by the ~~Board;~~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;~~subdivisions.
- (7) Engaged in or permitted any employee to engage in any alarm systems business when not lawfully in possession of a valid license issued under the provisions of this ~~Chapter;~~Chapter.
- (8) Committed an unlawful breaking or entering, assault, battery, or ~~kidnapping;~~kidnapping.
- (9) Committed any other act which is a ground for the denial of an application for a license or registration under this ~~Chapter;~~Chapter.
- (10) ~~Failure—Failed~~ to maintain the certificate of liability required by this ~~Chapter;~~Chapter.
- (11) Any judgment of incompetency by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or commitment to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3(21), by a court having jurisdiction under Article 5 of Chapter 122C of the General ~~Statutes;~~Statutes.
- (12) Accepted payment in advance for services not performed within a reasonable time ~~period;~~period.
- (13) A lack of temperate habits or ~~of~~-good moral character. The acts that are prima facie evidence of lack of temperate habits or ~~of~~-good moral character under G.S. 74D-6(3) are prima facie evidence of the same under this subdivision.
- (14) Been previously denied a license or registration under this Chapter or previously had a license or registration revoked for cause.
- (15) Engaged in the alarm systems profession under a name other than the name under which the license was obtained under the provisions of this Chapter.
- (16) Advertised or solicited business using a name other than that in which a license was issued.
- (17) Failed or refused to reasonably cooperate with the Board or its agents during an investigation of any complaint, allegation, suspicion of wrongdoing, or violation of this Chapter.
- (18) Failed to properly make any disclosure or provide documents or information required by this Chapter or by the Board.
- (19) Engaged in conduct that constitutes dereliction of duty or otherwise deceives, defrauds, or harms the public in the course of professional activities or services.
- (20) Demonstrated a lack of financial responsibility."

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

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

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

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

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

SECTION 9. The title of Article 2 of Chapter 74D of the General Statutes reads as rewritten:

"Article 2.

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

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

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

(a) There is hereby created and established a special fund to be known as the "Alarm Systems ~~Recovery~~-Education Fund" (hereinafter Fund) which shall be set aside and maintained in the office of the State Treasurer. ~~Said~~The 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.~~education of licensees and registrants.

~~(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee under this Chapter, nor shall the repayment in full of all obligations to the Fund by any licensee 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, 1985, the Board shall charge every licensee on that date a fee of fifty dollars (\$50.00);
- (2) The Board shall charge each new applicant for a license 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 on July 1, 1985; and
- (3) The Board is authorized to charge each licensee 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).~~twenty-five thousand dollars (\$25,000).

(d) The State Treasurer shall invest and reinvest the moneys 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.~~law. The Board in its discretion, may use ~~any and all of the proceeds from such investments~~the Fund for any of the following purposes:

- (1) To advance education and research in the alarm systems field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the ~~industry;~~industry.
- (2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees, 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 alarm systems field in North Carolina."

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

SECTION 12. This act becomes effective October 1, 2009, and applies to licenses or registrations issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 5th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:50 a.m. this 28th day of August, 2009