

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-21
SENATE BILL 20**

AN ACT TO AMEND THE LAW REGULATING PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-87 reads as rewritten:

"§ 115D-87. Definitions.

~~As used in this Article:~~The following definitions apply in this Article:

- (1) ~~"Correspondence school" means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the student and the school, usually through printed or typewritten matter sent by the school and written responses by the student.~~
- (2) ~~"Persons" means any Person. – Any individual, association, partnership or corporation, and includes any director, receiver, referee, trustee, executor, or administrator as well as a natural person.~~
- (3) ~~"Proprietary business school" or "business school" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers business and office related courses for which tuition is charged, in business or office related subjects or subjects of general education when they contribute value to the objective of the course of study. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~
- (4) ~~"Proprietary trade school" or "trade school" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any trade, mechanical or industrial occupation or teaching any or several of the subjects needed to train youths or adults in the skills, knowledge and subjects, related industrial information, and job judgment, necessary for success in one or more skilled trades, industrial occupations or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~
- (5) ~~"Proprietary technical school", "technical school", "proprietary technical institute", or "technical institute" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any technical occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge and subjects, related information, and job judgment, necessary for success in~~



~~one or more technical or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.~~

- (5) Proprietary school. – An educational institution having a physical presence within North Carolina that meets all of the following conditions:
- a. It is privately owned by a sole proprietorship, partnership, limited liability company, or corporation.
 - b. It is established as a business entity or as a nonprofit charitable organization.
 - c. It offers instruction to individuals who (i) have completed their elementary and secondary education or (ii) are beyond the age of compulsory secondary school attendance and have demonstrated an ability to benefit from that instruction for the attainment of educational objectives, vocational objectives, or both.
 - d. It charges tuition or receives any consideration from a student for any portion of the instruction in any form, including written or audiovisual material.
 - e. It educates, trains, or claims or offers to educate or train students in a program leading toward (i) examinations for licensing in a profession or vocation, (ii) employment at a beginning or advanced level, or (iii) a postsecondary educational credential below the associate degree level.

The term includes a branch or extension of a private postsecondary educational institution of another state that is located in this State or that offers educational services or education at a physical location within this State. Delivery systems employed may include, but are not limited to, (i) correspondence, (ii) classrooms, (iii) hotels or other temporary dwelling units or areas, or (iv) electronic communications such as those used in distance education. Distance education is education, training courses, or programs delivered to a student who is geographically separate from the instructor.

If a school has physical locations and offers classes in more than one county, the school's operation in each county shall constitute a separate proprietary school, as defined in this section."

SECTION 2. G.S. 115D-88 reads as rewritten:

"§ 115D-88. Exemptions.

It is the purpose of this Article to include all private schools operated for profit: Provided, that the following schools shall be exempt from the provisions of this Article:

- (1) Nonprofit schools conducted by ~~bona fide eleemosynary or religious institutions.~~ (i) charities that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is charged to the student or (ii) religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student.
- (3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.
- (4) Any school for which there is another legally existing licensing or approving board or agency in this State.
- (4a) Classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities.

- (4b) ~~Classes or schools that are taught or coached in homes or elsewhere to five or fewer students.~~
- (4c) Classes or schools that the State Board, acting by and through the President of the Community College System, determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals.
- (5) Any established university, professional, or liberal arts college, public or private school regulated or recognized pursuant to Chapter 115C of the General Statutes or by any other State Agency, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all ~~business schools, proprietary trade schools, proprietary technical schools, or correspondence~~ proprietary schools as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards or agencies.
- (6) Any institution that is exempt from licensure pursuant to G.S. 116-15(c)."

SECTION 3. G.S. 115D-89 reads as rewritten:

"§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; rules.

(a) The State Board of Community Colleges, acting by and through the President of the Community College System, shall have authority to administer and enforce this Article and to grant and issue licenses to ~~proprietary business schools, proprietary trade schools, proprietary technical schools, and correspondence schools,~~ proprietary schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such ~~proprietary business school, proprietary trade school, proprietary technical school, or correspondence school,~~ proprietary school may by and with the approval of the State Board issue certificates and diplomas.

(c) The State Board, acting by and through the President of the Community College System, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and by inspections made by authorized representatives of the State Board of Community Colleges, the State Board of Community Colleges shall have general supervision over ~~business, trade, technical, and correspondence schools~~ proprietary schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the ~~licensed business, trade, technical, and correspondence schools~~ proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Community Colleges is

authorized to issue such rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the President of the Community College System, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency."

SECTION 4. G.S. 115D-90(a) reads as rewritten:

"(a) No person shall operate, conduct or maintain or offer to operate in this State a ~~proprietary trade school, proprietary technical school, proprietary business school, or correspondence school,~~proprietary school unless a license is first secured from the State Board of Community Colleges granted in accordance with the provisions of this Article and the rules adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each school approved."

SECTION 5. G.S. 115D-90(b)(7)i. reads as rewritten:

"(7) Such additional information as the State Board, acting by and through the President of the Community College System, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:

...

- i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the school cancels the class and a seventy-five percent (75%) refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged."

SECTION 6. G.S. 115D-91(b) reads as rewritten:

"(b) Licenses—Unless a duration is otherwise prescribed by the State Board of Community Colleges, licenses shall be renewable annually on July 1; ~~Provided, if all of the following conditions are met:~~

- (1) ~~an~~ An application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the President of the Community College ~~System, and System.~~
- (2) ~~the~~ The renewal fee has been ~~paid;~~ paid.
- (3) ~~Provided, further that the~~ The school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license."

SECTION 7. G.S. 115D-96 reads as rewritten:

"§ 115D-96. Operating school without license or bond made misdemeanor.

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a ~~proprietary business school, a proprietary technical school, a proprietary trade school, or a correspondence school,~~proprietary school without first

having obtained the license herein required, and without first having executed the bond, paid the assessments into the Student Protection Fund, or both, as required by law, shall be guilty of a Class 3 misdemeanor, and each day the school continues to be open and operated shall constitute a separate offense."

SECTION 8. G.S. 115D-97 reads as rewritten:

"§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null and void.

All contracts entered into by ~~proprietary business, proprietary technical, proprietary trade, or correspondence schools,~~proprietary schools with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article."

SECTION 9. Section 5 of this act is effective when it becomes law and applies beginning with the 2011-2012 academic year. The remainder of this act becomes effective July 1, 2011.

In the General Assembly read three times and ratified this the 24th day of March, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 4:59 p.m. this 31st day of March, 2011