

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 340

Short Title: Alarm Systems Licensing Amended.

(Public)

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Sponsors: Senators Ballance; and Odom.

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Referred to: State Personnel and State Government.

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March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS AMENDMENTS TO THE NORTH CAROLINA  
ALARM SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74D-2 reads as rewritten:

**"§ 74D-2. Licenses required.**

(a) No person, firm, ~~association or corporation~~ 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 act. For purposes of this Chapter an 'alarm systems business' is defined as any person, firm, association or corporation which sells or attempts to sell 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 on specific types and specific locations of alarm system devices, 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. A department or division of a firm, association or corporation may be separately licensed under this act 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(b) Repealed by Session Laws 1989, c. 730, s. 1.

- 1 (c) (1) No business entity shall do business under this Chapter  
2 unless the business entity has in its employ a designated resident  
3 qualifying agent who meets the requirements for a license issued  
4 under and who is, in fact, licensed under the provisions of this  
5 Chapter, unless otherwise approved by the Board. Provided,  
6 however, that this approval shall not be given unless the business  
7 entity has and continuously maintains in this State a registered agent  
8 who shall be an individual resident in this State. Service upon the  
9 registered agent appointed by the business entity of any process,  
10 notice or demand required by or permitted by law to be served upon  
11 the business entity by the Alarm Systems Licensing Board shall be  
12 binding upon the business entity and the licensee. Nothing herein  
13 contained shall limit or affect the right to serve any process, notice  
14 or demand required or permitted by law to be served upon a business  
15 entity in any other manner or hereafter permitted by law.
- 16 (2) For the purposes of this Chapter, a 'qualifying agent' means an  
17 individual in a management position who is licensed under this  
18 Chapter and whose name and address have been registered with the  
19 board.
- 20 (3) In the event that the qualifying agent upon whom the business entity  
21 relies in order to do business ceases to perform his duties as qualifying  
22 agent, the business entity shall notify the board in writing within 10  
23 working days. The business entity must obtain a substitute qualifying  
24 agent within 30 days after the original qualifying agent ceases to serve  
25 as qualifying agent unless the board, in its discretion, and upon written  
26 request of the business entity, extends this period for good cause for a  
27 period of time not to exceed three months.
- 28 (4) The license certificate shall list the name of at least one designated  
29 qualifying agent. No licensee shall serve as the qualifying agent for  
30 more than one business entity without the prior approval of the Board.
- 31 (d) Upon receipt of an application, the board shall cause a background  
32 investigation to be made during which the applicant shall be required to show that he  
33 meets all the following requirements and qualifications prerequisite to obtaining a  
34 license:
- 35 (1) That the applicant is at least 18 years of age;  
36 (2) That the applicant is of good moral character and temperate habits.  
37 The following shall be **prima facie** evidence that the applicant does  
38 not have good moral character or temperate habits: conviction by any  
39 local, State, federal, or military court of any crime involving the illegal  
40 use, carrying, or possession of a firearm; conviction of any crime  
41 involving the illegal use, possession, sale, manufacture, distribution or  
42 transportation of a controlled substance, drug, narcotic, or alcoholic  
43 beverages; conviction of a crime involving felonious assault or an act  
44 of violence; conviction of a crime involving unlawful breaking or

1 entering, burglary, larceny, or of any offense involving moral  
2 turpitude; or a history of addiction to alcohol or a narcotic drug;  
3 provided that, for purposes of this subsection, "conviction" means and  
4 includes the entry of a plea of guilty, plea of no contest, or a verdict  
5 rendered in open court by a judge or jury;

6 (3) That the applicant has the necessary training, qualifications and  
7 experience to be licensed.

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

10 Sec. 2. G.S. 74D-3 reads as rewritten:

11 **"§ 74D-3. Exemptions.**

12 The provisions of this Chapter shall not apply to:

13 (1) A person, firm, association or corporation which sells or manufactures  
14 alarm systems, unless such persons, firm, association or corporation  
15 makes personal inspections of interiors of residences or businesses to  
16 advise on specific types and specific locations of alarm system  
17 devices, installs, services, monitors or responds to alarm systems at or  
18 from a protected premises or a premises to be protected and thereby  
19 obtains knowledge of specific application or location of the alarm  
20 system;

21 (2) Installation, servicing or responding to fire alarm systems or any alarm  
22 device which is installed in a motor vehicle, aircraft or boat;

23 (3) Installation of an alarm system on property owned by or leased to the  
24 installer;

25 (4) An alarm monitoring company located in another state which  
26 demonstrates to the Board's satisfaction that it does not conduct any  
27 business through a personal representative present in this State but  
28 which solicits and conducts business solely through interstate  
29 communication facilities such as telephone messages, earth satellite  
30 relay stations and the United States postal service; and

31 (5) A person or business providing alarm systems services to a State  
32 agency or local government if that person or business has been  
33 providing those services to the State agency or local government for  
34 more than five years prior to the effective date of this act, and the State  
35 agency or local government joins with the person or business in  
36 requesting the application of this exemption."

37 Sec. 3. G.S. 74D-4 reads as rewritten:

38 **"§ 74D-4. Alarm Systems Licensing Board.**

39 (a) The Alarm Systems Licensing Board is hereby established.

40 (b) The Board shall consist of seven members: the Attorney General or his designee;  
41 two persons appointed by the Governor, one of whom shall be licensed under this  
42 Chapter and one of whom shall be a public member; two persons appointed by the  
43 General Assembly upon the recommendation of the President of the Senate in  
44 accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and

1 one of whom shall be a public member; and two persons appointed by the General  
2 Assembly upon the recommendation of the Speaker of the House of Representatives in  
3 accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and  
4 one of whom shall be a public member.

5 (c) Each member shall be appointed for a term of three years and shall serve until  
6 a successor is installed. No member shall serve more than two complete three-year  
7 consecutive terms. The term of each member, other than the Attorney General or his  
8 designee, who is serving on August 7, 1989, shall terminate on June 30, 1989. Of the  
9 appointments made by the General Assembly upon the recommendation of the President  
10 of the Senate to begin on July 1, 1989, one member shall be for a term of one year and  
11 one member shall be for a term of three years. Of the appointments made by the  
12 General Assembly upon the recommendation of the Speaker of the House of  
13 Representatives, one member shall be appointed for a term of two years and one  
14 member shall be appointed for a term of three years. Thereafter all terms shall be for  
15 three years.

16 (d) A vacancy on the Board shall be filled for the unexpired term by the original  
17 appointing authority. Vacancies in legislative appointments shall be filled under G.S.  
18 120-122. A vacancy may be created by removal of a Board member, either at the  
19 pleasure of the original appointing authority or by the remaining members of the Board  
20 for misconduct, incompetence or neglect of duty. A Board member may only be  
21 removed by remaining board members pursuant to a hearing at which the member  
22 subject to removal has an opportunity to be heard.

23 (e) ~~Compensation, per diem and reimbursement for Board members shall be as~~  
24 ~~provided in G.S. 93B-5, except that Board members who are also State or full-time~~  
25 ~~salaries public officers or employees shall receive no per diem compensation for~~  
26 ~~servicing on the Board, and shall only receive the travel allowances set forth in G.S. 138-~~  
27 ~~6. All other Board members shall receive reimbursement in accordance with G.S. 93B-~~  
28 ~~5(b) and, notwithstanding G.S. 93B-5(a), shall receive as compensation for their~~  
29 ~~services per diem not to exceed one hundred dollars (\$100.00) for each day during~~  
30 ~~which they are engaged in the official business of the Board.~~

31 (f) The Board shall elect a chairman and a vice-chairman from its membership  
32 by majority vote at the first meeting of its fiscal year. The vice-chairman shall serve as  
33 chairman of the screening committee and shall also serve as chairman in the chairman's  
34 absence. At no time shall both the positions of chairman and vice-chairman be held by  
35 either an industry representative or a nonindustry representative.

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

39 Sec. 4. G.S. 74D-5.1 reads as rewritten:

40 "**§ 74D-5.1. Position of Administrator created.**

41 The position of Administrator of the Alarm Systems Licensing Board is hereby  
42 created within the State Bureau of Investigation. The Attorney General shall appoint a  
43 person to fill this full-time position. The Administrator's duties shall be to administer  
44 the directives contained in this Chapter and the rules promulgated by the Board to

1 implement this Chapter and to carry out the administrative duties incident to the  
 2 functioning of the Board in order to actively police the alarm systems industry to insure  
 3 compliance with the law in all aspects. The Administrator may issue a temporary grant  
 4 or denial of a request for registration subject to final action by the Board at its next  
 5 regularly scheduled meeting."

6 Sec. 5. G.S. 74D-6 reads as rewritten:

7 **"§ 74D-6. Denial of a license.**

8 Upon a finding that the applicant meets the requirements of ~~G.S. 74D-2(d)~~ and  
 9 ~~(e)~~, for licensure or registration under this Chapter, the Board shall determine whether  
 10 the applicant shall receive ~~a license~~ the license or registration applied for. The grounds  
 11 for denial ~~of a license~~ include:

- 12 (1) Commission of some act which, if committed by a registrant or  
 13 licensee, would be grounds for the suspension or revocation of a  
 14 registration or license under this Chapter;
- 15 (2) Conviction of a crime involving fraud;
- 16 (3) Lack of good moral character or temperate habits. The following shall  
 17 be prima facie evidence that the applicant does not have good moral  
 18 character or temperate habits: conviction by any local, State, federal,  
 19 or military court of any crime involving the illegal use, carrying, or  
 20 possession of a firearm; conviction of any crime involving the illegal  
 21 use, possession, sale, manufacture, distribution, or transportation of a  
 22 controlled substance, drug, narcotic, or alcoholic beverages; conviction  
 23 of a crime involving felonious assault or an act of violence; conviction  
 24 of a crime involving unlawful breaking or entering, burglary or larceny  
 25 or of any offense involving moral turpitude; or a history of addiction to  
 26 alcohol or a narcotic drug; provided that, for purposes of this  
 27 subsection "conviction" means and includes the entry of a plea of  
 28 guilty, plea of no contest, or a verdict rendered in open court by a  
 29 judge or jury;
- 30 (4) Previous denial ~~of a license~~ under this Chapter or previous revocation  
 31 ~~of a license~~ for cause;
- 32 (5) Knowingly making any false statement or misrepresentation in ~~the~~  
 33 ~~license application~~ an application made to the Board for a license or  
 34 registration."

35 Sec. 6. G.S. 74D-7 reads as rewritten:

36 **"§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices;**  
 37 **fees.**

38 (a) The license when issued shall be in such form as may be determined by the  
 39 Board and shall state:

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

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

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

3 (c) No licensee shall engage in any business regulated by this Chapter under a  
4 name other than the licensee name or names which appear on the certificate issued by  
5 the Board.

6 (d) Any branch office of an alarm systems business shall ~~be properly licensed.~~  
7 obtain a branch office certificate. A separate ~~license, certificate~~ stating the location and  
8 licensed qualifying agent, shall be posted at all times in a conspicuous place in each  
9 branch office. Every business covered under the provisions of this Chapter shall file in  
10 writing with the Board the addresses of each of its branch offices. All licensees of a  
11 branch office shall notify the Board in writing, within 10 working days after the  
12 establishment, closing, or changing of the location of any branch office. A licensed  
13 qualifying agent may be responsible for more than one branch office of an alarm  
14 systems business with the prior approval of the Board. Temporary approval may be  
15 granted by the Administrator, upon application of the qualifying agent, for a period of  
16 time not to exceed 10 working days after the adjournment of the next regularly  
17 scheduled meeting of the Board unless the Board determines that the application should  
18 be denied.

19 (e) The Board is authorized to charge reasonable ~~application and license~~  
20 application, license, and registration fees as follows:

- 21 (1) A nonrefundable initial application fee in an amount not to exceed  
22 ~~seventy five dollars (\$75.00); one hundred fifty dollars (\$150.00).~~
- 23 (2) A new or renewal license fee in an amount not to exceed ~~one hundred~~  
24 ~~fifty dollars (\$150.00); three hundred fifty dollars (\$350.00).~~
- 25 (3) A late renewal fee to be paid in addition to the renewal fee due in an  
26 amount not to exceed one hundred dollars (\$100.00), if the license has  
27 not been renewed on or before the expiration date of the ~~license;~~  
28 license.
- 29 (4) A registration fee in an amount not to exceed ~~fifteen dollars (\$15.00)~~  
30 twenty dollars (\$20.00) plus any fees charged to the board for  
31 background checks by the State Bureau of Investigation;
- 32 (5) A fee for reregistration of an employee who changes employment to  
33 another licensee, not to exceed ten dollars (\$10.00).
- 34 (6) A branch office certificate fee not to exceed one hundred fifty dollars  
35 (\$150.00).
- 36 (7) A special limited monitoring and responding license fee not to exceed  
37 one hundred dollars (\$100.00).

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

40 Sec. 7. G.S. 74D-8 reads as rewritten:

41 "**§ 74D-8. Registration of persons employed.**

- 42 (a) (1) All licensees of an alarm systems business, ~~upon or before the~~  
43 ~~beginning of employment of any employee, shall furnish the Board with~~  
44 ~~the following:~~ shall register with the Board within 20 days after the

1                    employment begins, all of the licensee's employees that are within  
 2                    the State, unless in the discretion of the Administrator, the time  
 3                    period is extended for good cause. To register an employee, a  
 4                    licensee shall submit to the Board as to the employee: set(s) of  
 5                    classifiable fingerprints on standard F.B.I. applicant cards; recent  
 6                    color photograph(s) of acceptable quality for identification; and  
 7                    statements of any criminal records obtained from the appropriate  
 8                    authority in each area where the employee has resided within the  
 9                    immediately preceding 48 months.

10            (2)    Except during the period allowed for registration in subdivision (a)(1)  
 11            of this section, no An-alarm systems business may not-employ any  
 12            employee unless the employee's registration has been approved by the  
 13            Board as set forth in this section. ~~employee is properly registered with the~~  
 14            Board in compliance with G.S. 74D-8(a)(1).

15            (b)    ~~The Board~~ Administrator shall be notified in writing of the termination of any  
 16            employee registered under this Chapter within ~~10-20~~ days after the termination.

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

23            (d)    If all required documents, properly completed, have been submitted to the  
 24            Board no later than 20 days after an employee begins employment, the employer of  
 25            each applicant for registration shall give the applicant a copy of the complete  
 26            application which the employee can use until a registration card issued by the Board is  
 27            received."

28            Sec. 8. G.S. 74D-9(e) reads as rewritten:

29            "(e)    An insurance carrier shall have the right to cancel such policy of liability  
 30            insurance upon giving ~~a 30-day written~~ notice to the Board. ~~Board~~ within a reasonable  
 31            time before the effective date of the cancellation. Provided, however, that such  
 32            cancellation shall not affect any liability on the policy which accrued prior thereto. The  
 33            policy of liability shall be approved by the Board as to form, execution, and terms  
 34            thereon."

35            Sec. 9. G.S. 74D-10 reads as rewritten:

36            "**§ 74D-10. Suspension or revocation of licenses and registrations; appeal.**

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

40            (1)    Made any false statement or given any false information in connection  
 41            with any application for a license or registration, or for the renewal or  
 42            reinstatement of a ~~license;~~ license or registration;

43            (2)    Violated any provision of this Chapter;

- 1 (3) Violated any rule promulgated by the Board pursuant to the authority  
2 contained in this Chapter;
- 3 (4) Been convicted of any crime involving moral turpitude or any other  
4 crime involving violence or the illegal use, carrying, or possession of a  
5 dangerous weapon;
- 6 (5) Failed to correct business practices or procedures that have resulted in  
7 a prior reprimand by the Board;
- 8 (6) Impersonated or permitted or aided and abetted any other person to  
9 impersonate a law-enforcement officer of the United States, this State,  
10 or any of its political subdivisions;
- 11 (7) Engaged in or permitted any employee to engage in any alarm systems  
12 business when not lawfully in possession of a valid license issued  
13 under the provisions of this Chapter;
- 14 (8) Committed an unlawful breaking or entering, assault, battery, or  
15 kidnapping;
- 16 (9) Committed any other act which is a ground for the denial of an  
17 application for a license or registration under this Chapter;
- 18 (10) Failure to maintain the certificate of liability required by this Chapter;
- 19 (11) Any judgment of incompetency by a court having jurisdiction under  
20 Chapter 35A or former Chapter 35 of the General Statutes or  
21 commitment to a mental health facility for treatment of mental illness,  
22 as defined in ~~G.S. 122-36(d) [122C-3(21)]~~, G.S. 122C-3(21), by a court  
23 having jurisdiction under ~~Article 5A of Chapter 122 [Article 5 of Chapter~~  
24 ~~122C]~~ Article 5 of Chapter 122C of the General Statutes;
- 25 (12) Accepted payment in advance for services not performed within a  
26 reasonable time ~~period~~ period;
- 27 (13) Lack of temperate habits or of good moral character. The acts that are  
28 prima facie evidence of lack of temperate habits or of good moral  
29 character under G.S. 74D-6(3) are prima facie evidence of the same  
30 under this subdivision.

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

35 Sec. 10. G.S. 74D-11 reads as rewritten:

36 "**§ 74D-11. Enforcement.**

37 (a) The Board is authorized to apply in its own name to any judge of the Superior  
38 Court of the General Court of Justice for an injunction in order to prevent any violation  
39 or threatened violation of the provisions of this Chapter.

40 (b) Any person, firm, association, ~~or corporation of corporation, or department or~~  
41 division of a firm, association or corporation, or their agents and employees violating  
42 any of the provisions of this Chapter or knowingly violating any rule promulgated to  
43 implement this Chapter shall be guilty of a misdemeanor and punishable by a fine of up  
44 to five hundred dollars (\$500.00), by imprisonment for a term not to exceed one year, or



1 by both, in the discretion of the court. The Attorney General, or his representative, shall  
2 have concurrent jurisdiction with the district attorneys of this State to prosecute  
3 violations of this Chapter.

4 (c) The regulation of alarm systems businesses shall be exclusive to the Board;  
5 however, any city or county shall be permitted to require an alarm systems business  
6 operating within its jurisdiction to register and to supply information regarding its  
7 license, and may adopt an ordinance to require users of alarm systems to obtain  
8 revocable permits when alarm usage involves automatic signal transmission to a law-  
9 enforcement agency.

10 (d) In lieu of revocation of suspension of a license or registration under G.S.  
11 74D-10, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed  
12 by the Board against any person who violates any provision of this Chapter, or any rule  
13 of the Board adopted pursuant to this Chapter. In determining the amount of any  
14 penalty, the Board shall consider the degree and extent of harm caused by the violation.  
15 All penalties collected under this section will be deposited in the General Fund.

16 (e) Proceedings for the assessment of civil penalties shall be governed by  
17 Chapter 150B of the General Statutes. If the person assessed a penalty fails to pay the  
18 penalty to the Board, the Board may institute an action in the superior court of the  
19 county in which the person resides or has his principal place of business to recover the  
20 unpaid amount of the penalty. An action to recover a civil penalty under this section  
21 shall not relieve any party from any other penalty prescribed by law."

22 Sec. 11. This act is effective upon ratification. Section 6 of this act applies to  
23 fees due and licenses issued or renewed after the date of ratification of this act.