

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 953
SENATE BILL 340

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 ~~aet.~~ Chapter. 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 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(b) Repealed by Session Laws 1989, c. 730, s. 1.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) (1) No business entity shall do business under this Chapter unless the business entity has in its 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) 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.
- (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 days after the original qualifying agent ceases to serve as qualifying 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 qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without the prior approval of the Board.

(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, plea of no contest, 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."

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

"§ 74D-3. Exemptions.

The provisions of this Chapter shall not apply to:

- (1) A person, firm, association or corporation which sells or manufactures alarm systems, unless such persons, firm, association or corporation makes personal inspections of interiors of residences or businesses to advise on specific types and specific locations of alarm system devices, installs, services, 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;
- (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;
- (4) An alarm monitoring company located in another state which demonstrates to the Board's satisfaction that it 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; and
- (5) A person or business providing alarm systems services to a State agency or local government if that person or business has been providing those services to the State agency or local government for more than five years prior to the effective date of this ~~aet, Chapter,~~ and the State agency or local government joins with the person or business in requesting the application of this exemption."

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

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

- (a) The Alarm Systems Licensing Board is hereby established.
- (b) The Board shall consist of seven members: the Attorney General or his designee; two persons appointed by the Governor, one of whom shall be licensed under this Chapter and one of whom shall be a public member; two persons appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and one of whom shall be a public member; and two persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and one of whom 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 three-year consecutive terms. The term of each member, other than the Attorney General or his designee, who is serving on August 7, 1989, shall terminate on June 30, 1989. Of the appointments made by the General Assembly upon the recommendation of the President of the Senate to begin on July 1, 1989, one member shall be for a term of one year and one member shall be for a term of three years. Of the appointments made by the General Assembly upon the recommendation of the Speaker of the House of

Representatives, one member shall be appointed for a term of two years and one member shall be appointed for a term of three years. Thereafter all terms shall be for three years.

(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 receive no per diem compensation for serving on the Board, and shall only receive the travel allowances set forth in G.S. 138-6. All other Board members shall receive reimbursement in accordance with G.S. 93B-5(b) and, notwithstanding G.S. 93B-5(a), shall receive as compensation for their services per diem not to exceed one hundred dollars (\$100.00) for each day during which they are engaged in the official business of the Board. The Board shall set the per diem compensation of Board members who are not also State officers or employees.~~

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

(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."

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

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

The position of Administrator of the Alarm Systems Licensing Board is hereby created within the State Bureau of Investigation. The Attorney General shall appoint a person to fill this full-time position. The Administrator's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to carry out the administrative duties incident to the functioning of the Board in order to actively police the alarm systems industry to insure compliance with the law in all aspects. The Administrator may issue a temporary grant or denial of a request for registration subject to final action by the Board at its next regularly scheduled meeting."

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

"§ 74D-6. Denial of a ~~license~~-license or registration.

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

- (1) Commission of some act which, if committed by a registrant or licensee, would be grounds for the suspension or revocation of a registration or 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, plea of no contest, 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~~. an application made to the Board for a license or registration."

Sec. 6. 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 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~~. 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 ~~be properly licensed~~. obtain a branch office certificate. A separate license, certificate stating the location and licensed qualifying ~~agent, 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 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 Administrator, 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 ~~is authorized to~~ may charge reasonable ~~application and license~~ fees as follows:

- (1) A nonrefundable initial license application fee in an amount not to exceed ~~seventy-five dollars (\$75.00);~~ one hundred fifty dollars (\$150.00).
- (2) A new or renewal license fee in an amount not to exceed ~~one hundred fifty dollars (\$150.00);~~ three hundred fifty dollars (\$350.00).
- (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;~~ license.
- (4) A registration fee in an amount not to exceed ~~fifteen dollars (\$15.00)~~ twenty dollars (\$20.00) plus any fees charged to the board for background checks by the State Bureau of ~~Investigation;~~ 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).

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."

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

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

- (a) (1) All licensees of an alarm systems business, ~~upon or before the beginning of employment of any employee, shall furnish the Board with the following:~~ shall register with the Board within 20 days after the employment begins, all of the licensee's employees that are within the State, unless in the discretion of the Administrator, 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.
- (2) Except during the period allowed for registration in subdivision (a)(1) of this section, no ~~An~~ alarm systems business may ~~not~~ employ any employee unless the employee's registration has been approved by the

Board as set forth in this section. employee is properly registered with the Board in compliance with G.S. 74D-8(a)(1).

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

(c) The Board shall issue ~~an identification~~a registration card to each employee of a licensee who is registered under this Chapter. The registration card shall expire ~~one year~~two years 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).

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

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

"(e) An insurance carrier shall have the right to cancel such policy of liability insurance upon giving ~~a 30-day written~~notice to the Board. Board within a reasonable time before the effective date of the cancellation. 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."

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

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

(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; license or registration;~~
- (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 a prior reprimand 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 any 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 or registration under this Chapter;
- (10) Failure to maintain the certificate of liability required by this 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. 122-36(d) [122C-3(21)]~~, G.S. 122C-3(21), by a court having jurisdiction under ~~Article 5A of Chapter 122 [Article 5 of Chapter 122C]~~ Article 5 of Chapter 122C of the General 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.

(b) The revocation or suspension of license or registration 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 150B of the General Statutes."

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

"§ 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~~ corporation, or department or division of a 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.

(d) In lieu of revocation or suspension of a license or registration under G.S. 74D-10, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person who violates any provision of this Chapter, or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any

penalty, the Board shall consider the degree and extent of harm caused by the violation. All penalties collected under this section will be deposited in the General Fund.

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

Sec. 11. This act is effective upon ratification. Section 6 of this act applies to fees due after the date of ratification of this act.

In the General Assembly read three times and ratified this the 15th day of July, 1992.

Henson P. Barnes
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives