

March 25, 2009

**S 860. STUDENT TRUST FUND/PROPRIETARY SCHOOLS.** Filed 3/25/09. *TO ESTABLISH A STUDENT PROTECTION FUND FOR PROPRIETARY SCHOOL STUDENTS.*

Adds new GS 115D-95.1 for purpose indicated in title to compensate students enrolled in a proprietary school that terminates a program or ceases operation before the students complete their program of study. Prior to its first year of operation in the state, a proprietary school must pay \$500 into the Fund . For its first five years of operation it must pay in an amount that depends on its total number of students. All proprietary schools must annually pay in an amount equal to 0.0005 of its annual gross tuition revenue generated in the state. A school with no claims for 15 years may stop making the payments. Students enrolled in a proprietary school that terminates a program or ceases operation before the students have completed their program of study may qualify for payments from the Fund under rules to be adopted by the State Board of Community Colleges. Amends GS 115D-96 to make failure to pay into the fund a misdemeanor. Repeals GS 115D-95 (effective July 1, 2012), which now requires a bond for each proprietary school and sets a diminishing schedule for the bond amount until the statute's repeal. Effective July 1, 2009, unless otherwise indicated.

**Intro. by Clodfelter.**

GS 115D

June 17, 2009

**S 860. STUDENT PROTECTION FUND/PROPRIETARY SCHOOLS (NEW).** Filed 3/25/09.

Senate committee substitute makes the following changes to 1st edition.

Current law provides that the State Board of Community Colleges (State Board), acting by and through the President of Community Colleges, has the authority to administer and enforce Article 8 of GS Chapter 115D and to grant and issue licenses to proprietary business schools, proprietary trade schools, proprietary technical schools, and correspondence schools (school) meeting specified standards.

Deletes provision in the 1st edition that repealed GS 115D-95 regarding bonds required for such schools effective July 1, 2012; instead, amends GS 115D-95 as follows. Requires a guaranty bond for each school that is licensed to operate, *if required by this section*.

Provides that a guaranty bond is required for a school during its first five years of operation in North Carolina. Requires that the bond be issued in the name of the North Carolina State Board of Community Colleges. Directs that the bond is to provide indemnification to any student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instructional-related expenses (was, tuition or any fees) paid to the school, if the loss resulted from the failure of the school to offer or complete student instruction, academic services, or other goods and services related to enrollment for any reason.

Clarifies that the bond amount must be equal to the greatest amount of unearned paid tuition in the school's possession at any time during the prior fiscal year. Requires that the bond amount be at least \$25,000 (was, \$10,000). Directs the school to assess the bond amount quarterly and to report the amount to the State Board or its representative. Provides guidelines regarding any necessary quarterly adjustments to the bond amount. Requires that the application for a license or *report of quarterly adjustment to the bond amount* include a letter signed by an authorized representative of the school showing detailed calculations and the method of computing the bond amount.

Enumerates conditions which require a guaranty bond for license renewal for a school that has been continuously licensed to operate for more than five years in the state. Requires that each application for a license include a letter signed by an authorized representative of the school certifying whether the school is required to file a bond under this subsection [proposed (b1) of GS 115D-95]. Provides that if a bond is required, the school must show in detail the calculations made and the method of computing the bond amount. Provides criteria under which the State Board may require an additional bond. Directs that the requirements of subdivision (b)(3) and proposed subdivision (b)(1) of GS 115D-95 must be met for guaranty bonds required by this subsection.

Amends proposed GS 115D-95.1, *Student Protection Fund*. Defines *catastrophic loss amount* to mean the amount of funds required to protect prepaid student tuition in case of a large

scale event that would draw against the Student Protection Fund (Fund). Provides that for the first year of the Fund, the initial amount is \$1 million. Defines *fund cap amount* to mean the catastrophic loss amount plus a reserve amount. Provides that for the first year of the Fund, the initial amount is \$1.5 million.

Delineates the purposes of the Fund and provides that a student or the student's parent or guardian may qualify for repayments under the Fund. Directs the President of the North Carolina Community Colleges System to appoint a seven member Student Protection Fund Advisory Committee with membership terms of three years. Requires each school, prior to its first year of operation in the state, to pay an initial amount of \$1,250 (was, \$500) into the Fund. Directs each school operating in the state to annually pay an amount to the Fund based on its annual gross tuition revenue generated in the state. Provides a table indicating the amount of the assessment based on the annual gross tuition revenue (was, directed each school to pay into the Fund an amount equal to .0005 of its annual gross tuition revenue generated in the state).

Provides for a suspension of payments to the Fund by schools that have been continuously licensed in the state for more than eight years if the Fund balance is equal to or exceeds the Fund cap amount. Directs the State Board to require that schools resume payments into the Fund if the balance is less than the catastrophic loss amount. Authorizes the State Board to assess additional fees if claims against the Fund exceed the catastrophic loss amount. Provides additional guidelines regarding administration of the Fund should the fund amount be insufficient to cover qualified claims. Makes payments to the Fund nonrefundable.

Requires each school, as a condition of license renewal for the 2010-11 fiscal year (was, for its first five years of operation in the state), to pay into the Fund an amount based on its total enrollment for the previous calendar year.

Changes the effective date to July 1, 2010 (was, except as otherwise provided in this act, act becomes effective July 1, 2009).

July 2, 2009

**S 860. STUDENT PROTECTION FUND/PROPRIETARY SCHOOLS.** Filed 3/25/09. Senate committee substitute makes the following changes to 2nd edition. Enacts new GS 115D-93(c)(10) and (11) authorizing the State Board of Community Colleges (Board) to refuse to issue or renew a license and to suspend or revoke a license upon a finding that an applicant for or a holder of a license has failed to provide a required bond or bond alternative or has failed to pay assessments into the Student Protection Fund (Fund). Amends GS 115D-95 to require that an applicant for a license comply with bond requirements. Specifies that the bond covers the potential loss by students of the school of prepaid tuition and other payments that could occur if the school fails to fulfill its obligations to provide instruction, services, or goods for which students have paid. Requires that an applicant file a bond with the Board that meets specified requirements and that an applicant set out the calculations used to determine the amount of the bond. Provides that the Board determines amount of bond for the first year of licensure, which must be at least \$25,000 and in an amount sufficient to indemnify students. Requires during first four years of license renewal that a school file a bond equal to the greatest amount of unearned paid tuition in the school's possession during the prior fiscal year. Requires that such schools evaluate the bond amount quarterly and report to the Board. Specifies that a quarterly evaluation requiring an increase of 5% or more in the amount of the bond requires an immediate increase in the bond amount. Requires that bond amounts for such schools be evaluated at the time of annual license renewal and increased if necessary regardless of the amount of the change. Requires that schools continuously licensed to operate for more than five years file a bond if (1) the balance in the Fund is below the catastrophic loss amount, in which case the school must file a bond in an amount equal to the maximum amount of prepaid tuition held by the school during the prior fiscal year, multiplied by the percentage amount the fund is deficient and (2) the school holds prepaid tuition in excess of the Fund catastrophic loss amount during the prior fiscal year, in which case the school must file a bond for the difference between the prepaid tuition amount and the catastrophic loss amount. New GS 115D-95.1(a) is amended to set the Fund catastrophic loss amount at \$1 million and the Fund cap amount at \$1.5 million (amounts were set for first year only in 2nd edition). New GS 115D-95.1(c) is amended to provide that one of the seven members

of the Student Protection Fund Advisory Committee consist of an owner/director of a proprietary school or group of proprietary schools with more than 750 students or his or her designee. Deletes language from 2nd edition requiring the Department of State Treasurer to hold all Fund balances in excess of the Fund cap amount in a higher yield account. New GS 115D-95.1(j) is amended to require that the Board issue any repayments under the Fund first from the bonds issued under GS 115D-51 and provides that if the Fund is insufficient to cover the qualified claims, the Board must develop a method of allocating funds among claims. Makes other technical changes.

July 14, 2009

**S 860. STUDENT PROTECTION FUND/PROPRIETARY SCHOOLS.** Filed 3/25/09. House committee substitute makes the following changes to 3rd edition. Deletes existing statutory language (omitted in the previous edition) in proposed amended GS 115D-95(a), which allowed the State Board of Community Colleges to revoke the license of a school that fails to maintain a bond or an alternative to a bond pursuant to the statute.

July 30, 2009

**S 860. STUDENT PROTECTION FUND/PROPRIETARY SCHOOLS.** Filed 3/25/09. House committee substitute makes the following changes to 4th edition. Provides in proposed amended GS 115D-95(a) that the required bond covers the potential loss by students of prepaid tuition and other payments made by them to a school licensed under Article 8 of GS Chapter 115D by reason of the school ceasing to operate for any reason (was, that could occur if the school fails for any reason to fulfill its obligations to them to provide instruction, services, or goods for which the students have paid tuition and other charges). Makes similar changes to GS 115D-95.1 concerning payment from the Student Protection Fund. Adds GS 115D-95.1(k) to require the State Board of Community Colleges to adopt rules for the implementation of GS 115D-95.1(k).  
Makes technical changes.

September 1, 2009

**SL 2009-562 (S 860). STUDENT PROTECTION FUND/PROPRIETARY SCHOOLS. AN ACT TO ESTABLISH A STUDENT PROTECTION FUND FOR PROPRIETARY SCHOOL STUDENTS.** Summarized in *Daily Bulletin* 3/25/09, 6/17/09, 7/2/09, 7/14/09, and 7/30/09. Enacted August 28, 2009. Effective July 1, 2010.