

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 458

Short Title: Alarm Systems Changes.

(Public)

Sponsors: Senator Odom.

Referred to: Judiciary I.

March 16, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW CONCERNING ALARM SYSTEMS.

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 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, 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, for a fee or other valuable consideration.~~ theft.

(b) ~~Any person in possession of a valid Alarm Systems Business License issued under Chapter 74C of the General Statutes before the enactment of this Chapter shall be issued an appropriate substitute license under this Chapter.~~

(c) (1) ~~A~~ No business entity ~~other than a sole proprietorship~~ shall not 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 ~~this Chapter~~ and who ~~is in fact~~ is, in fact, licensed under the provisions of this ~~Chapter.~~ 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



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

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

4 **"§ 74D-3. Exemptions.**

5 The provisions of this Chapter shall not apply to:

- 6 (1) A ~~person~~ person, firm, association or business corporation which sells  
7 or manufactures alarm systems, unless such ~~person~~ persons, firm,  
8 association or business corporation installs, ~~services~~ services, monitors  
9 or responds to alarm systems at or from a protected premises or a  
10 premises to be protected and thereby obtains knowledge of specific  
11 applications; application or location of the alarm system;  
12 (2) Installation, servicing or responding to fire alarm systems or any alarm  
13 device which is installed in a motor vehicle, aircraft or boat;  
14 (3) Installation of an alarm system on property owned by or leased to the  
15 installer;  
16 (4) An alarm monitoring company located in another state which does not  
17 conduct any business through a personal representative present in this  
18 State but which solicits and conducts business solely through interstate  
19 communication facilities such as telephone messages, earth satellite  
20 relay stations and the United States postal service; and  
21 (5) A person or business providing alarm systems services to a State  
22 agency or local government if that person or business has been  
23 providing those services to the State agency or local government for  
24 more than five years prior to the effective date of this act, and the State  
25 agency or local government joins with the person or business in  
26 requesting the application of this exemption."

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

28 **"§ 74D-4. Alarm Systems Licensing ~~Board established; members; terms;~~**  
29 **~~vacancies; compensation; officers; meetings.~~ Board.**

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

31 (b) The Board shall consist of ~~five~~ seven members: the Attorney General or his  
32 designee; ~~one person~~ two persons appointed by the ~~Governor~~ Governor, one of  
33 whom shall be licensed under this ~~Chapter;~~ Chapter and one of whom shall be a public member; ~~one person~~ two persons appointed  
34 by the General Assembly upon the recommendation of the ~~Lieutenant Governor~~ President of the Senate in accordance with G.S. 120-121 ~~who~~ 120-121, one of whom  
35 shall be licensed under this ~~Chapter;~~ Chapter and one of whom shall be a public  
36 member; and ~~one person~~ two persons appointed by the General Assembly upon the  
37 recommendation of the Speaker of the House of Representatives ~~under~~ in accordance  
38 with G.S. 120-121 ~~who~~ 120-121, one of whom shall be licensed under this Chapter and  
39 one of whom shall be a public member.

40 (c) Each member shall be appointed for a term of three years and shall serve until  
41 a successor is installed. No member shall serve more than two complete three-year  
42 consecutive terms. The ~~initial appointments shall be made by October 1, 1983.~~ By October 1,  
43  
44

1 ~~1986, the General Assembly shall appoint~~ term of each member, other than the Attorney  
2 General or his designee, who is serving on the effective date of this act shall terminate  
3 on June 30, 1989. Of the appointments made by the General Assembly upon the  
4 recommendation of the President of the Senate under G.S. 120-121 a successor to its  
5 licensed appointment who also shall be licensed under this Chapter and shall appoint to begin  
6 on July 1, 1989, one member shall be for a term of one year and one member shall be  
7 for a term of three years. Of the appointments made by the General Assembly upon the  
8 recommendation of the Speaker of the House of Representatives under G.S. 120-121 a  
9 successor to its public appointment who also shall be a public member. Every three years  
10 thereafter the recommendation of the Lieutenant Governor and of the Speaker of the House of  
11 Representatives with respect to the licensed and public status of the persons they recommend  
12 shall continue likewise to alternate. Representatives, one member shall be appointed for a  
13 term of two years and one member shall be appointed for a term of three years.  
14 Thereafter all terms shall be for three years.

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

22 (e) Compensation, per diem and reimbursement for Board members shall be as  
23 provided in G.S. 93B-5, except that Board members who are also State or full-time  
24 salaried public officers or employees shall only receive the travel allowances set forth in  
25 G.S. 138-6.

26 (f) The Board shall elect a chairman from its membership by majority vote at the  
27 first meeting of its fiscal year.

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

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

32 "**§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices;**  
33 **fees.**

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

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

39 (b) The license shall be issued for a term of one year. Each license must be  
40 renewed before expiration of the term of the license. Following issuance, the license  
41 shall at all times be posted in a conspicuous place in the principal place of business of  
42 the licensee. A license issued under this Chapter is not assignable.

43 (c) No licensee shall engage in any business regulated by this Chapter under a  
44 name other than the licensee name or names which appears-appear on the certificate

1 issued by the Board or the name of a business entity which the licensee has registered with the  
2 Board.

3 (d) Any branch office of an alarm systems business shall be properly licensed. A  
4 separate license, stating the location and licensed qualifying agent, shall be posted at all  
5 times in a conspicuous place in each branch office. Every business covered under the  
6 provisions of this Chapter shall file in writing with the Board the addresses of each of its  
7 ~~branch offices, if any, offices.~~ All licensees of a branch office shall notify the Board in  
8 writing, within 10 working days after the establishment, closing, or changing of the  
9 location of any branch office. A licensed qualifying agent may be responsible for more  
10 than one office, in the discretion of an alarm systems business with the prior  
11 approval of the Board.

12 (e) The Board is authorized to charge reasonable application and license fees as  
13 follows:

- 14 (1) A nonrefundable initial application fee in an amount not to exceed  
15 seventy-five dollars (\$75.00);
- 16 (2) A new or renewal license fee in an amount not to exceed one hundred  
17 fifty dollars (\$150.00);
- 18 (3) A late renewal fee to be paid in addition to the renewal fee due in an  
19 amount not to exceed one hundred dollars ~~(\$100.00),~~ (\$100.00), if the  
20 license has not been renewed on ~~a~~ or before the expiration date of the  
21 license.
- 22 (4) A registration fee in an amount not to exceed fifteen dollars (\$15.00)  
23 plus any fees charged to the board for background checks by the State  
24 Bureau of Investigation;
- 25 (5) A fee for reregistration of an employee who changes employment to  
26 another licensee, not to exceed ten dollars (\$10.00).

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

29 Sec. 5. G.S. 74D-8 reads as rewritten:

30 **"§ 74D-8. Registration of persons employed; temporary employment. employed.**

- 31 (a) (1) All licensees, licensees of an alarm systems business, upon  
32 or before the beginning of employment of an any employee, shall  
33 furnish the Board with the following: set(s) of classifiable  
34 fingerprints on standard F.B.I. applicant cards; recent color  
35 photograph(s) of acceptable quality for identification; and statements  
36 of any criminal records obtained from county sheriff, chief of police, or  
37 clerk of superior court the appropriate authority in each county in North  
38 Carolina area where the employee has resided within the immediately  
39 preceding 24-48 months.
- 40 (2) An alarm systems business may not employ any employee unless the  
41 employee is properly registered with the Board in compliance with  
42 G.S. 74D-8(a)(1)."

43 Sec. 6. G.S. 74D-9 reads as rewritten:

1 **"§ 74D-9. ~~Bond and certificate of~~ Certificate liability insurance required; form and**  
2 **approval; ~~action on bonds; suspension for noncompliance.~~**

3 (a) to (c) Repealed by Session Laws 1985, c. 561, s. 8, effective July 1, 1986.

4 (d) No license shall be issued under this act unless the applicant files with the  
5 Board evidence of a policy of liability insurance which policy must provide for the  
6 following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury  
7 or death of one person as a result of the negligent act or acts of the principal insured or  
8 his agents operating in the course and scope of his employment; subject to said limit for  
9 one person, one hundred thousand dollars (\$100,000) because of bodily injury or death  
10 of two or more persons as the result of the negligent act or acts of the principal insured  
11 or his agent operating in the course and scope of his or her agency; twenty thousand  
12 dollars (\$20,000) because of injury to or destruction of property of others as the result of  
13 the negligent act or acts of the principal insured or his agents operating in the course and  
14 scope of his or her agency.

15 (e) An insurance carrier shall have the right to cancel such policy of liability  
16 insurance upon giving a 30-day notice to the Board. Provided, however, that such  
17 cancellation shall not affect any liability on the policy which accrued prior thereto. The  
18 policy of liability shall be approved by the Board as to form, execution, and terms  
19 thereon.

20 (f) Every licensee shall at all times maintain on file with the Board a certificate  
21 of insurance required by this Chapter in full force and effect and upon failure to do so,  
22 the license of such licensee shall be automatically suspended and shall not be reinstated  
23 until an application therefor, in the form prescribed by the Board, is filed together with a  
24 proper insurance certificate."

25 Sec. 7. G.S. 74D-10 reads as rewritten:

26 **"§ 74D-10. Suspension or revocation of licenses; licenses and registrations; appeal.**

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

- 30 (1) Made any false statement or given any false information in connection  
31 with any application for a license or for the renewal or reinstatement of  
32 a license;
- 33 (2) Violated any provision of this Chapter;
- 34 (3) Violated any rule promulgated by the Board pursuant to the authority  
35 contained in this Chapter;
- 36 (4) Been convicted of any crime involving moral turpitude or any other  
37 crime involving violence or the illegal use, carrying, or possession of a  
38 dangerous weapon;
- 39 (5) Failed to correct business practices or procedures that have resulted in  
40 a prior reprimand ~~reprimands~~ reprimand by the Board;
- 41 (6) Impersonated or permitted or aided and abetted any other person to  
42 impersonate a law-enforcement officer of the United States, this State,  
43 or any of its political subdivisions;

- 1 (7) Engaged in or permitted any employee to engage in any alarm systems  
2 business when not lawfully in possession of a valid license issued  
3 under the provisions of this Chapter;
- 4 (8) Committed an unlawful breaking or entering, assault, battery, or  
5 kidnapping;
- 6 (9) Committed any other act which is a ground for the denial of an  
7 application for a license under this Chapter;
- 8 (10) Failure to maintain the certificate of liability required by this Chapter;
- 9 (11) Any judgment of incompetency by a court having jurisdiction under  
10 Chapter 35A or former Chapter 35 of the General Statutes or  
11 commitment to a mental health facility for treatment of mental illness,  
12 as defined in G.S. 122-36(d), by a court having jurisdiction under  
13 Article 5A of Chapter 122 of the General Statutes. ~~Statutes;~~
- 14 (12) Accepted payment in advance for services not performed within a  
15 reasonable time period.

16 (b) The revocation or suspension of a ~~license~~ or registration by the Board as  
17 provided in subsection (a) shall be in writing, stating the grounds upon which the Board  
18 decision is based. The aggrieved person shall have the right to appeal from such  
19 decision as provided in Chapter 150A of the General Statutes."

20 Sec. 8. G.S. 74D-11 reads as rewritten:

21 "**§ 74D-11. Enforcement.**

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

25 (b) Any person, firm, association, or corporation of their agents and employees  
26 violating any of the provisions of this Chapter or knowingly violating any rule  
27 promulgated to implement this Chapter shall be guilty of a misdemeanor and punishable  
28 by a fine of up to five hundred dollars (\$500.00), by imprisonment for a term not to  
29 exceed one year, or by both, in the discretion of the court. The Attorney General, or his  
30 representative, shall have concurrent jurisdiction with the district attorneys of this State  
31 to prosecute violations of this Chapter.

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

38 (d) In lieu of revocation or suspension of a license under G.S. 74D-10, a civil  
39 penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board  
40 against any person who violates any provision of this Chapter, or any rule of the Board  
41 adopted pursuant to this Chapter. In determining the amount of any penalty, the Board  
42 shall consider the degree and extent of harm caused by the violation.

43 (e) Proceedings for the assessment of civil penalties shall be governed by  
44 Chapter 150B of the General Statutes. If the person assessed a penalty fails to pay the

1 penalty to the Board, the Board may institute an action in the superior court of the  
2 county in which the person resides or has his principal place of business to recover the  
3 unpaid amount of the penalty. An action to recover a civil penalty under this section  
4 shall not relieve any party from any other penalty prescribed by law."

5           Sec. 9. This act is effective upon ratification.