

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 340  
Second Edition Engrossed 5/1/91

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

1 or division must, at a minimum, be physically separated from other premises of the  
2 firm, association or corporation.

3 (b) Repealed by Session Laws 1989, c. 730, s. 1.

4 (c) (1) No business entity shall do business under this Chapter  
5 unless the business entity has in its employ a designated resident  
6 qualifying agent who meets the requirements for a license issued  
7 under and who is, in fact, licensed under the provisions of this  
8 Chapter, unless otherwise approved by the Board. Provided,  
9 however, that this approval shall not be given unless the business  
10 entity has and continuously maintains in this State a registered agent  
11 who shall be an individual resident in this State. Service upon the  
12 registered agent appointed by the business entity of any process,  
13 notice or demand required by or permitted by law to be served upon  
14 the business entity by the Alarm Systems Licensing Board shall be  
15 binding upon the business entity and the licensee. Nothing herein  
16 contained shall limit or affect the right to serve any process, notice  
17 or demand required or permitted by law to be served upon a business  
18 entity in any other manner or hereafter permitted by law.

19 (2) For the purposes of this Chapter, a 'qualifying agent' means an  
20 individual in a management position who is licensed under this  
21 Chapter and whose name and address have been registered with the  
22 board.

23 (3) In the event that the qualifying agent upon whom the business entity  
24 relies in order to do business ceases to perform his duties as qualifying  
25 agent, the business entity shall notify the board in writing within 10  
26 working days. The business entity must obtain a substitute qualifying  
27 agent within 30 days after the original qualifying agent ceases to serve  
28 as qualifying agent unless the board, in its discretion, and upon written  
29 request of the business entity, extends this period for good cause for a  
30 period of time not to exceed three months.

31 (4) The license certificate shall list the name of at least one designated  
32 qualifying agent. No licensee shall serve as the qualifying agent for  
33 more than one business entity without the prior approval of the Board.

34 (d) Upon receipt of an application, the board shall cause a background  
35 investigation to be made during which the applicant shall be required to show that he  
36 meets all the following requirements and qualifications prerequisite to obtaining a  
37 license:

38 (1) That the applicant is at least 18 years of age;

39 (2) That the applicant is of good moral character and temperate habits.  
40 The following shall be **prima facie** evidence that the applicant does  
41 not have good moral character or temperate habits: conviction by any  
42 local, State, federal, or military court of any crime involving the illegal  
43 use, carrying, or possession of a firearm; conviction of any crime  
44 involving the illegal use, possession, sale, manufacture, distribution or

1 transportation of a controlled substance, drug, narcotic, or alcoholic  
2 beverages; conviction of a crime involving felonious assault or an act  
3 of violence; conviction of a crime involving unlawful breaking or  
4 entering, burglary, larceny, or of any offense involving moral  
5 turpitude; or a history of addiction to alcohol or a narcotic drug;  
6 provided that, for purposes of this subsection, "conviction" means and  
7 includes the entry of a plea of guilty, plea of no contest, or a verdict  
8 rendered in open court by a judge or jury;

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

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

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

14 **"§ 74D-3. Exemptions.**

15 The provisions of this Chapter shall not apply to:

- 16 (1) A person, firm, association or corporation which sells or manufactures  
17 alarm systems, unless such persons, firm, association or corporation  
18 makes personal inspections of interiors of residences or businesses to  
19 advise on specific types and specific locations of alarm system  
20 devices, installs, services, monitors or responds to alarm systems at or  
21 from a protected premises or a premises to be protected and thereby  
22 obtains knowledge of specific application or location of the alarm  
23 system;
- 24 (2) Installation, servicing or responding to fire alarm systems or any alarm  
25 device which is installed in a motor vehicle, aircraft or boat;
- 26 (3) Installation of an alarm system on property owned by or leased to the  
27 installer;
- 28 (4) An alarm monitoring company located in another state which  
29 demonstrates to the Board's satisfaction that it does not conduct any  
30 business through a personal representative present in this State but  
31 which solicits and conducts business solely through interstate  
32 communication facilities such as telephone messages, earth satellite  
33 relay stations and the United States postal service; and
- 34 (5) A person or business providing alarm systems services to a State  
35 agency or local government if that person or business has been  
36 providing those services to the State agency or local government for  
37 more than five years prior to the effective date of this act, and the State  
38 agency or local government joins with the person or business in  
39 requesting the application of this exemption."

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

41 **"§ 74D-4. Alarm Systems Licensing Board.**

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

43 (b) The Board shall consist of seven members: the Attorney General or his designee;  
44 two persons appointed by the Governor, one of whom shall be licensed under this

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

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

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

26 (e) ~~Compensation, per diem and reimbursement for Board members shall be as~~  
27 ~~provided in G.S. 93B-5, except that Board members who are also State or full-time~~  
28 ~~salaries public officers or employees shall receive no per diem compensation for~~  
29 ~~servicing on the Board, and shall only receive the travel allowances set forth in G.S. 138-~~  
30 ~~6. All other Board members shall receive reimbursement in accordance with G.S. 93B-~~  
31 ~~5(b) and, notwithstanding G.S. 93B-5(a), shall receive as compensation for their~~  
32 ~~services per diem not to exceed one hundred dollars (\$100.00) for each day during~~  
33 ~~which they are engaged in the official business of the Board.~~

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

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

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

43 "**§ 74D-5.1. Position of Administrator created.**

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

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

11 **"§ 74D-6. Denial of a license.**

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

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

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

40 **"§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices;**  
41 **fees.**

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

- 44 (1) The name of the licensee;

1 (2) The name under which the licensee is to operate; and

2 (3) The number and expiration date of the license.

3 (b) The license shall be issued for a term of ~~one year~~ two years. Each license  
4 must be renewed before expiration of the term of the license. Following issuance, the  
5 license shall at all times be posted in a conspicuous place in the principal place of  
6 business of the licensee. A license issued under this Chapter is not assignable.

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

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

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

25 (1) A nonrefundable initial application fee in an amount not to exceed  
26 ~~seventy five dollars (\$75.00); one hundred fifty dollars (\$150.00).~~

27 (2) A new or renewal license fee in an amount not to exceed ~~one hundred~~  
28 ~~fifty dollars (\$150.00); three hundred fifty dollars (\$350.00).~~

29 (3) A late renewal fee to be paid in addition to the renewal fee due in an  
30 amount not to exceed one hundred dollars (\$100.00), if the license has  
31 not been renewed on or before the expiration date of the ~~license;~~  
32 license.

33 (4) A registration fee in an amount not to exceed ~~fifteen dollars (\$15.00)~~  
34 twenty dollars (\$20.00) plus any fees charged to the board for  
35 background checks by the State Bureau of Investigation;

36 (5) A fee for reregistration of an employee who changes employment to  
37 another licensee, not to exceed ten dollars (\$10.00).

38 (6) A branch office certificate fee not to exceed one hundred fifty dollars  
39 (\$150.00).

40 (7) A special limited monitoring and responding license fee not to exceed  
41 one hundred dollars (\$100.00).

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

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

1 **"§ 74D-8. Registration of persons employed.**

2 (a) (1) All licensees of an alarm systems business, ~~upon or before the~~  
 3 ~~beginning of employment of any employee, shall furnish the Board with~~  
 4 ~~the following: shall register with the Board within 20 days after the~~  
 5 ~~employment begins, all of the licensee's employees that are within~~  
 6 ~~the State, unless in the discretion of the Administrator, the time~~  
 7 ~~period is extended for good cause. To register an employee, a~~  
 8 ~~licensee shall submit to the Board as to the employee: set(s) of~~  
 9 ~~classifiable fingerprints on standard F.B.I. applicant cards; recent~~  
 10 ~~color photograph(s) of acceptable quality for identification; and~~  
 11 ~~statements of any criminal records obtained from the appropriate~~  
 12 ~~authority in each area where the employee has resided within the~~  
 13 ~~immediately preceding 48 months.~~

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

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

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

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

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

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

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

40 **"§ 74D-10. Suspension or revocation of licenses and registrations; appeal.**

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

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

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

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

40 "**§ 74D-11. Enforcement.**

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



1 (b) Any person, firm, association, ~~or corporation or corporation~~, or department or  
2 division of a firm, association or corporation, or their agents and employees violating  
3 any of the provisions of this Chapter or knowingly violating any rule promulgated to  
4 implement this Chapter shall be guilty of a misdemeanor and punishable by a fine of up  
5 to five hundred dollars (\$500.00), by imprisonment for a term not to exceed one year, or  
6 by both, in the discretion of the court. The Attorney General, or his representative, shall  
7 have concurrent jurisdiction with the district attorneys of this State to prosecute  
8 violations of this Chapter.

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

15 (d) In lieu of revocation of suspension of a license or registration under G.S.  
16 74D-10, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed  
17 by the Board against any person who violates any provision of this Chapter, or any rule  
18 of the Board adopted pursuant to this Chapter. In determining the amount of any  
19 penalty, the Board shall consider the degree and extent of harm caused by the violation.  
20 All penalties collected under this section will be deposited in the General Fund.

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

27 Sec. 11. This act is effective upon ratification. Section 6 of this act applies to  
28 fees due and licenses issued or renewed after the date of ratification of this act. This act  
29 shall expire on June 30, 1993.