

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 561  
SENATE BILL 691

AN ACT TO INCORPORATE CERTAIN CHANGES INTO THE ALARM  
SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74D-2(d)(2), as the same appears in the 1983 Cumulative Supplement to Volume 2C of the General Statutes, is amended on line 13 by inserting after the word "guilty" and before the word "or" the following: ", plea of no contest,".

Sec. 2. G.S. 74D-6(3), as the same appears in the 1983 Cumulative Supplement to Volume 2C of the General Statutes, is amended on line 13 by inserting after the word "guilty" and before the word "or" the following: ", plea of no contest,".

Sec. 3. Chapter 74D of the General Statutes is amended by adding a new G.S. 74D-5.1 to read as follows:

**"§ 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."

Sec. 4. G.S. 74D-4(f) is hereby rewritten to read:

"The Board shall elect a Chairman from its membership by majority vote at the first meeting of its fiscal year."

Sec. 5. Chapter 74D of the General Statutes is amended by adding a new G.S. 74D-5.2 to read as follows:

**"§ 74D-5.2. Investigative powers of the Attorney General.**—The Attorney General for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this Chapter involving individuals licensed, or to be licensed, under this Chapter."

Sec. 6. G.S. 74D-8(a), as the same appears in the 1983 Cumulative Supplement to Volume 2C of the General Statutes is amended as follows:

a At line 2 the words "two sets" are deleted and the language "set(s)" is inserted in lieu thereof;

b At line 3, the word "two" is deleted; and

c At line 3, the word "photographs" is deleted and the language "photograph(s)" is inserted in lieu thereof.

Sec. 7. Chapter 74D is amended by designating the existing provisions as Article 1, and is further amended by adding a new Article 2 as follows:

"ARTICLE 2.

"Alarm Systems Recovery Fund.

**"§ 74D-30. Alarm Systems Recovery Fund created; payment to Fund; management; use of funds.**—(a) There is hereby created and established a special fund to be known as the "Alarm Systems Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee under this Chapter, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

- (1) On July 1, 1985, the Board shall charge every licensee on that date a fee of fifty dollars (\$50.00);
- (2) The Board shall charge each new applicant for a license fifty dollars (\$50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license on July 1, 1985; and
- (3) The Board is authorized to charge each licensee an additional amount, not to exceed fifty dollars (\$50.00), on July 1 of any year in which the balance of the Fund is less than one hundred thousand dollars (\$100,000).

(d) The State Treasurer shall invest and reinvest the monies in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from such investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from such investments for any of the following purposes:

- (1) To advance education and research in the alarm systems field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;
- (2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees, and
- (3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the alarm systems field in North Carolina.

**"§ 74D-31. Application for payment out of Fund; hearing grounds.**—(a) The Fund shall serve as a guaranty for the obligations of those licensed under this Chapter. The Fund's liability, as guaranty, is contingent upon a licensee defaulting upon an obligation

owed to a person by the licensee where said obligation was entered into by the licensee within the scope of the licensee's employment in providing alarm systems services.

(b) An aggrieved party may petition the Board for a hearing to determine whether or not a licensee defaulted upon an obligation owed to the aggrieved party by the licensee; whether, if such an obligation is found, it arose within the licensee's scope of employment while providing alarm systems services; and if so, the amount of damages suffered by the aggrieved party. Said hearing shall be governed by the procedures of Chapter 150A of the General Statutes.

(c) Claims filed under this Chapter may only be brought for obligations incurred on or after July 1, 1985.

(d) Until such time as the Fund reaches one hundred thousand dollars (\$100,000), or at any time the Fund has insufficient assets in excess of one hundred thousand dollars (\$100,000) to pay outstanding claims, the State Treasurer shall not disburse any payments to an aggrieved party. However, any party aggrieved and awarded payment as ordered by the Board, which order is dated after July 1, 1985, shall hold a vested right for payment plus interest as provided in G.S. 24-1 once the Fund reaches a sufficient level for payments. Authorized payments which cannot be made due to a lack of funds will be paid as funds become available, beginning with those payments which have been unsatisfied for the longest period of time.

(e) Hearings held pursuant to this Article shall be separate and apart from any hearings authorized pursuant to Article 1 of this Chapter. However, there is no prohibition against, if the Board so desires, holding hearings pursuant to Article 1 and Article 2 at the same location on the same date, or in front of the same hearing officer provided that in so doing no provisions of Chapter 150A of the General Statutes are violated.

**"§ 74D-32. Order directing payment out of Fund.**—If the Board finds, after a hearing pursuant to G.S. 74D-31, that the Fund, as guarantor, should make a payment to an aggrieved party, the Board shall enter an order directed to the State Treasurer authorizing payment from the Fund of whatever sum the Board shall find to be payable in accordance with the limitations contained in this Article.

**"§ 74D-33. Maximum liability; pro rata distribution.**—(a) Payments from the Fund shall be subject to the following limitations:

- (1) The Fund shall not be liable for more than five thousand dollars (\$5,000) per obligation regardless of the number of persons aggrieved; and
- (2) The liability of the Fund shall not exceed in the aggregate ten thousand dollars (\$10,000) for any one licensee within a single calendar year.

(b) If the maximum liability of the Fund is insufficient to pay in full the valid claims of all aggrieved persons whose claims related to the same obligation or to the same licensee, the amount for which the Fund is liable shall be distributed among the claimants in a ratio that their respective claims bear to the total of such valid claims or in such manner as the Board deems equitable. Upon action of the Board or parties, the Board may require all claimants and prospective claimants to be joined in one action to

the end that the respective rights of all such claimants to the Fund may be equitably adjudicated and settled."

Sec. 8. G.S. 74D-9 is amended as follows:

- a. G.S. 74D-9(a), (b) and (c) are repealed.
- b. G.S. 74D-9(f) is amended at lines 1 and 2 by deleting the words "the surety bond and" and inserting the language "a" in lieu thereof.
- c. G.S. 74D-9(f) is amended at line 6 by deleting the language "bond," and by also deleting the language ", or both".

Sec. 9. G.S. 74D-10(a)(10) is amended by deleting the language "cash bond, surety bond, or".

Sec. 10. G.S. 105-51.1(a), as the same appears in the 1983 Cumulative Supplement to Volume 2D of the General Statutes, is rewritten to read as follows:

"(a) Every person, firm or corporation engaged in an alarm system business licensed under Chapter 74D of the General Statutes shall apply for and obtain from the Secretary of Revenue a State license for the privilege of engaging in that business and the installing, servicing and monitoring of fire alarms, smoke alarms and communication systems as part of such a business operation and shall pay for such license a tax of twenty-five dollars (\$25.00)."

Sec. 11. This act is effective upon ratification, except Sections 8 and 9 which are effective July 1, 1986.

In the General Assembly read three times and ratified, this the 2nd day of July, 1985.