

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 458  
Second Edition Engrossed 4/19/89

Short Title: Alarm Systems Changes.

(Public)

Sponsors: Senator Odom.

Referred to: Judiciary I.

March 16, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW CONCERNING ALARM SYSTEMS.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 74D-2 reads as rewritten:

5 **"§ 74D-2. Licenses required.**

6 (a) No person, firm, association or corporation shall engage in or hold itself out  
7 as engaging in an alarm systems business without first being licensed in accordance  
8 with this act. For purposes of this Chapter an 'alarm systems business' is defined as any  
9 person, firm, association or corporation which sells or attempts to sell by engaging in a  
10 personal solicitation at a residence or business when combined with personal inspection  
11 of the interior of the residence or business to advise on specific types and specific  
12 locations of alarm system devices, installs, services, monitors or responds to electrical,  
13 electronic or mechanical alarm signal devices, burglar alarms, television cameras or still  
14 cameras used to detect burglary, breaking or entering, intrusion, shoplifting, pilferage,  
15 or theft, for a fee or other valuable consideration. ~~theft.~~

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

19 (c) (1) ~~A No~~ business entity ~~other than a sole proprietorship~~ shall not  
20 do business under this Chapter unless the business entity has in its  
21 employ a designated resident qualifying agent who meets the  
22 requirements for a license issued under ~~this Chapter~~ and who ~~is in fact~~  
23 is, in fact, licensed under the provisions of this ~~Chapter.~~ Chapter.

1 unless otherwise approved by the Board. Provided, however, that  
2 this approval shall not be given unless the business entity has and  
3 continuously maintains in this State a registered agent who shall be  
4 an individual resident in this State. Service upon the registered  
5 agent appointed by the business entity of any process, notice or  
6 demand required by or permitted by law to be served upon the  
7 business entity by the alarm systems licensing board shall be binding  
8 upon the business entity and the licensee. Nothing herein contained  
9 shall limit or affect the right to serve any process, notice or demand  
10 required or permitted by law to be served upon a business entity in  
11 any other manner or hereafter permitted by law.

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

16 (3) In the event that the qualifying agent upon whom the business entity  
17 relies in order to do business ceases to perform his duties as qualifying  
18 agent, the business entity shall notify the board within 10 working  
19 days. The business entity must obtain a substitute qualifying agent  
20 within 30 days after the original qualifying agent ceases to serve as  
21 qualifying agent unless the board, in its discretion, extends this period  
22 for good cause for a period of time not to exceed three months.

23 (4) The license certificate shall list the name of at least one designated  
24 qualifying agent. No licensee shall serve as the qualifying agent for  
25 more than one business entity without the prior approval of the board.

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

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

31 (2) That the applicant is of good moral character and temperate habits.  
32 The following shall be **prima facie** evidence that the applicant does  
33 not have good moral character or temperate habits: conviction by any  
34 local, State, federal, or military court of any crime involving the illegal  
35 use, carrying, or possession of a firearm; conviction of any crime  
36 involving the illegal use, possession, sale, manufacture, distribution or  
37 transportation of a controlled substance, drug, narcotic, or alcoholic  
38 beverages; conviction of a crime involving felonious assault or an act  
39 of violence; conviction of a crime involving unlawful breaking or  
40 entering, burglary, larceny, or of any offense involving moral  
41 turpitude; or a history of addiction to alcohol or a narcotic drug;  
42 provided that, for purposes of this subsection, 'conviction' means and  
43 includes the entry of a plea of guilty, plea of no contest, or a verdict  
44 rendered in open court by a judge or jury;

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

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

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

6 **"§ 74D-3. Exemptions.**

7 The provisions of this Chapter shall not apply to:

8 (1) A ~~person-person, firm, association or business-corporation~~ which sells  
9 or manufactures alarm systems, unless such ~~person-persons, firm,~~  
10 ~~association or business-corporation~~ makes personal inspections of  
11 interiors of residences or businesses to advise on specific types and  
12 specific locations of alarm system devices, installs, ~~services-services,~~  
13 monitors or responds to alarm systems at or from a protected premises  
14 or a premises to be protected and thereby obtains knowledge of  
15 specific applications; ~~application or location of the alarm system;~~

16 (2) Installation, servicing or responding to fire alarm systems or any alarm  
17 device which is installed in a motor vehicle, aircraft or boat;

18 (3) Installation of an alarm system on property owned by or leased to the  
19 installer;

20 (4) An alarm monitoring company located in another state which does not  
21 conduct any business through a personal representative present in this  
22 State but which solicits and conducts business solely through interstate  
23 communication facilities such as telephone messages, earth satellite  
24 relay stations and the United States postal service; and

25 (5) A person or business providing alarm systems services to a State  
26 agency or local government if that person or business has been  
27 providing those services to the State agency or local government for  
28 more than five years prior to the effective date of this act, and the State  
29 agency or local government joins with the person or business in  
30 requesting the application of this exemption."

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

32 **"§ 74D-4. Alarm Systems Licensing ~~Board established; members; terms;~~**  
33 **~~vacancies; compensation; officers; meetings.~~ Board.**

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

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

1 with G.S. ~~120-121~~ who ~~120-121~~, one of whom shall be licensed under this Chapter and  
2 one of whom shall be a public member.

3 (c) Each member shall be appointed for a term of three years and shall serve until  
4 a successor is installed. No member shall serve more than two complete three-year  
5 consecutive terms. The initial appointments shall be made by October 1, 1983. By October 1,  
6 1986, the General Assembly shall appoint term of each member, other than the Attorney  
7 General or his designee, who is serving on the effective date of this act shall terminate  
8 on June 30, 1989. Of the appointments made by the General Assembly upon the  
9 recommendation of the President of the Senate under G.S. 120-121 a successor to its  
10 licensed appointment who also shall be licensed under this Chapter and shall appoint to begin  
11 on July 1, 1989, one member shall be for a term of one year and one member shall be  
12 for a term of three years. Of the appointments made by the General Assembly upon the  
13 recommendation of the Speaker of the House of Representatives under G.S. 120-121 a  
14 successor to its public appointment who also shall be a public member. Every three years  
15 thereafter the recommendation of the Lieutenant Governor and of the Speaker of the House of  
16 Representatives with respect to the licensed and public status of the persons they recommend  
17 shall continue likewise to alternate. Representatives, one member shall be appointed for a  
18 term of two years and one member shall be appointed for a term of three years.  
19 Thereafter all terms shall be for three years.

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

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

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

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

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

37 "**§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices;**  
38 **fees.**

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

- 41 (1) The name of the licensee;
- 42 (2) The name under which the licensee is to operate; and
- 43 (3) The number and expiration date of the license.

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

5 (c) No licensee shall engage in any business regulated by this Chapter under a  
 6 name other than the licensee name or names which appears-appear on the certificate  
 7 issued by the ~~Board or the name of a business entity which the licensee has registered with the~~  
 8 Board.

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

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

- 20 (1) A nonrefundable initial application fee in an amount not to exceed  
 21 seventy-five dollars (\$75.00);
- 22 (2) A new or renewal license fee in an amount not to exceed one hundred  
 23 fifty dollars (\$150.00);
- 24 (3) A late renewal fee to be paid in addition to the renewal fee due in an  
 25 amount not to exceed one hundred dollars ~~(\$100.000),~~ (\$100.00), if the  
 26 license has not been renewed on ~~a~~-or before the expiration date of the  
 27 license.
- 28 (4) A registration fee in an amount not to exceed fifteen dollars (\$15.00)  
 29 plus any fees charged to the board for background checks by the State  
 30 Bureau of Investigation;
- 31 (5) A fee for reregistration of an employee who changes employment to  
 32 another licensee, not to exceed ten dollars (\$10.00).

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

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

36 "**§ 74D-8. Registration of persons ~~employed; temporary employment.~~ employed.**

- 37 (a) (1) All licensees, licensees of an alarm systems business, upon  
 38 or before the beginning of employment of ~~an~~-any employee, shall  
 39 furnish the Board with the following: set(s) of classifiable  
 40 fingerprints on standard F.B.I. applicant cards; recent color  
 41 photograph(s) of acceptable quality for identification; and statements  
 42 of any criminal records obtained from ~~county sheriff, chief of police, or~~  
 43 ~~clerk of superior court~~ the appropriate authority in each county in North

1            ~~Carolina-area~~ where the employee has resided within the immediately  
2            preceding ~~24-48~~ months.

3            (2) An alarm systems business may not employ any employee unless the  
4            employee is properly registered with the Board in compliance with  
5            G.S. 74D-8(a)(1)."

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

7            "**§ 74D-9. ~~Bond and certificate of~~ Certificate liability insurance required; form and**  
8            **approval; action on bonds; suspension for noncompliance.**

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

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

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

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

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

32          "**§ 74D-10. ~~Suspension or revocation of licenses;~~ licenses and registrations; appeal.**

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

- 36            (1) Made any false statement or given any false information in connection  
37            with any application for a license or for the renewal or reinstatement of  
38            a license;  
39            (2) Violated any provision of this Chapter;  
40            (3) Violated any rule promulgated by the Board pursuant to the authority  
41            contained in this Chapter;  
42            (4) Been convicted of any crime involving moral turpitude or any other  
43            crime involving violence or the illegal use, carrying, or possession of a  
44            dangerous weapon;

- 1 (5) Failed to correct business practices or procedures that have resulted in  
 2 a prior reprimands-reprimand by the Board;
- 3 (6) Impersonated or permitted or aided and abetted any other person to  
 4 impersonate a law-enforcement officer of the United States, this State,  
 5 or any of its political subdivisions;
- 6 (7) Engaged in or permitted any employee to engage in any alarm systems  
 7 business when not lawfully in possession of a valid license issued  
 8 under the provisions of this Chapter;
- 9 (8) Committed an unlawful breaking or entering, assault, battery, or  
 10 kidnapping;
- 11 (9) Committed any other act which is a ground for the denial of an  
 12 application for a license under this Chapter;
- 13 (10) Failure to maintain the certificate of liability required by this Chapter;
- 14 (11) Any judgment of incompetency by a court having jurisdiction under  
 15 Chapter 35A or former Chapter 35 of the General Statutes or  
 16 commitment to a mental health facility for treatment of mental illness,  
 17 as defined in G.S. 122-36(d), by a court having jurisdiction under  
 18 Article 5A of Chapter 122 of the General ~~Statutes~~. Statutes;
- 19 (12) Accepted payment in advance for services not performed within a  
 20 reasonable time period.

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

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

26 "**§ 74D-11. Enforcement.**

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

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

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

43 (d) In lieu of revocation of suspension of a license under G.S. 74D-10, a civil  
 44 penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board

1 against any person who violates any provision of this Chapter, or any rule of the Board  
2 adopted pursuant to this Chapter. In determining the amount of any penalty, the Board  
3 shall consider the degree and extent of harm caused by the violation.

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

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