

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 942
Committee Substitute Favorable 6/25/01
Third Edition Engrossed 7/3/01
Senate Commerce Committee Substitute Adopted 7/18/01

Short Title: Locksmith Licensure.

(Public)

Sponsors:

Referred to:

April 2, 2001

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A BILL TO BE ENTITLED

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AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

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The General Assembly of North Carolina enacts:

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SECTION 1. The General Statutes are amended by adding a new Chapter to read:

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"Chapter 74F.

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"Locksmith Licensing Act.

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"§ 74F-1. Short title.

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This act shall be known as the North Carolina Locksmith Licensing Act.

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"§ 74F-2. Purpose.

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Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare.

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"§ 74F-3. Licenses required.

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(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter.

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(b) Except as otherwise punished under G.S. 14-55, it shall be unlawful for any person who is not licensed under this Chapter to possess any locksmith tools, safe-opening tools, or code books for the purpose of violating the laws of this State. A violation of this subsection is a Class 3 misdemeanor.

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"§ 74F-4. Definitions.

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The following definitions apply in this Chapter:

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(1) Board. – The North Carolina Locksmith Licensing Board.

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(2) Code book. – A compilation, in any form, of key codes and combinations.

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1 (3) License. – A certificate issued by the Board recognizing the person
2 named therein as having met the requirements to perform locksmith
3 services as defined in this Chapter.

4 (4) Locksmith. – A person who has been issued a license by the Board.

5 (5) Locksmith services. – Repairing, rebuilding, rekeying, repinning,
6 servicing, adjusting, or installing locks, mechanical or electronic
7 locking devices, access control devices, egress control devices, safes,
8 vaults, and safe-deposit boxes for compensation or other consideration,
9 including services performed by safe technicians.

10 (6) Locksmith tools. – Any tools that are designed or used to open a
11 mechanical or electrical locking device in a way other than that which
12 was intended by the manufacturer.

13 **"§ 74F-5. North Carolina Locksmith Licensing Board.**

14 (a) Composition and Terms. – The Board shall consist of nine members who
15 shall serve staggered terms. Three members shall represent the public. The initial Board
16 members shall be appointed on or before January 1, 2002, as follows:

17 (1) The General Assembly, upon the recommendation of the President Pro
18 Tempore of the Senate, shall appoint three locksmiths, two of whom
19 shall serve terms of four years and one of whom shall serve a term of
20 three years. At least one of the locksmiths shall represent a recognized
21 locksmith organization in the State.

22 (2) The General Assembly, upon the recommendation of the Speaker of
23 the House of Representatives, shall appoint three locksmiths, one of
24 whom shall serve a term of four years, one of whom shall serve a term
25 of three years, and one of whom shall serve a term of two years. At
26 least one of the locksmiths shall represent a recognized locksmith
27 organization in the State.

28 (3) The Governor shall appoint three public members, one of whom shall
29 serve a term of three years, and two of whom shall serve terms of two
30 years.

31 Upon the expiration of the terms of the initial Board members, each member shall be
32 appointed for a term of three years and shall serve until a successor is appointed. No
33 member may serve more than two consecutive terms.

34 (b) Qualifications. – The locksmith members shall have at least five years'
35 experience in locksmith services and shall be engaged in that business for the duration
36 of their term on the Board. The locksmith members initially appointed to the Board
37 shall immediately become licensed as locksmiths by complying with the provisions of
38 this Chapter. Public members of the Board shall not be trained or experienced in
39 locksmith services, have a financial interest in a locksmith business, or be the spouse of
40 a person who is so trained or experienced or has such an interest. All members of the
41 Board shall reside in this State and shall represent various geographical areas of the
42 State.

1 (c) Vacancies. – A vacancy shall be filled in the same manner as the original
2 appointment, except that all unexpired terms in seats appointed by the General
3 Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies
4 shall serve the remainder of the unexpired term and until their successors have been
5 duly appointed and qualified.

6 (d) Removal. – The Board may remove any of its members for neglect of duty,
7 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
8 as a licensee shall be disqualified from participating in the official business of the Board
9 until the charges have been resolved.

10 (e) Compensation. – Each member of the Board shall receive per diem and
11 reimbursement for travel and subsistence as provided in G.S. 93B-5.

12 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other
13 officers deemed necessary by the Board to carry out the purposes of this Chapter. All
14 officers shall be elected annually during the first meeting of the calendar year by the
15 Board for one-year terms and shall serve until their successors are elected and qualified.

16 (g) Meetings. – The Board shall hold at least two meetings each year to conduct
17 business and to review the standards and rules for issuing licenses under this Chapter.
18 The Board shall adopt rules governing the calling, holding, and conducting of regular
19 and special meetings. A majority of Board members shall constitute a quorum.

20 **"§ 74F-6. Powers of the Board.**

21 The Board shall have the power and duty to:

- 22 (1) Administer and enforce the provisions of this Chapter.
- 23 (2) Adopt rules as may be necessary to carry out the provisions of this
24 Chapter.
- 25 (3) Examine and determine the qualifications and fitness of applicants for
26 licensure and renewal of licensure.
- 27 (4) Issue, renew, deny, suspend, or revoke licenses and conduct any
28 disciplinary actions authorized by this Chapter.
- 29 (5) Set fees for licensure, licensure renewal, and other services deemed
30 necessary to carry out the provisions of this Chapter.
- 31 (6) Establish and approve continuing education requirements for persons
32 licensed under this Chapter.
- 33 (7) Receive and investigate complaints from members of the public.
- 34 (8) Conduct investigations for the purpose of determining whether
35 violations of this Chapter or grounds for disciplining licensees exist.
- 36 (9) Conduct administrative hearings in accordance with Article 3A of
37 Chapter 150B of the General Statutes.
- 38 (10) Maintain a record of all proceedings conducted by the Board and make
39 available to licensees and other concerned parties an annual report of
40 all Board action.
- 41 (11) Maintain a list of the names and addresses of all persons licensed by
42 the Board.

1 (12) Employ and fix the compensation of personnel that the Board
 2 determines is necessary to carry out the provisions of this Chapter and
 3 incur other expenses necessary to perform the duties of the Board.

4 (13) Adopt and publish a code of ethics.

5 (14) Adopt a seal containing the name of the Board for use on all licenses
 6 and official reports issued by the Board.

7 **"§ 74F-7. Qualifications for license.**

8 An applicant shall be licensed as a locksmith if the applicant meets all of the
 9 following qualifications:

10 (1) Is of good moral and ethical character.

11 (2) Is at least 18 years of age.

12 (3) Successfully completes an examination administered by the Board that
 13 measures the knowledge and skill of the applicant in locksmith
 14 services and the laws applicable to licensed locksmiths.

15 (4) Pays the required fee under G.S. 74F-9.

16 **"§ 74F-8. Licensure based on experience; licensure of nonresident; reciprocity.**

17 (a) The Board may grant, upon application and payment of proper fees, a license
 18 to a person who resides in this State and has at least three years' experience as a licensed
 19 locksmith in another state whose standards of competency are substantially equivalent
 20 to those provided in this Chapter.

21 (b) The Board may grant, upon application and payment of proper fees, a license
 22 to a nonresident if the person meets the requirements of this Chapter or the person
 23 resides in a state that recognizes licenses issued by the Board.

24 **"§ 74F-9. Fees.**

25 The Board shall establish fees not exceeding the following amounts:

26 (1) Issuance of a license \$100.00

27 (2) Renewal of a license \$100.00

28 (3) Examination \$200.00

29 (4) Reinstatement \$150.00

30 (5) Late fees \$150.00.

31 **"§ 74F-10. Issuance, renewal, replacement, and transfer of licenses.**

32 (a) The Board shall issue a license, upon payment of the license fee, to any
 33 applicant who has satisfactorily met the requirements of this Chapter as administered by
 34 the Board. Licenses shall show the full name of the person and an identification number,
 35 and shall be signed by the chair and one other officer of the Board.

36 (b) All licenses shall expire three years after the date they were issued unless
 37 renewed. All applications for renewal shall be filed with the Board and shall be
 38 accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired
 39 for failure to renew may be reinstated after the applicant pays the late and reinstatement
 40 fees as required by G.S. 74F-9.

41 (c) The Board shall replace any license that is lost, destroyed, or mutilated
 42 subject to rules established by the Board.

1 (d) A license may not be transferred or assigned.

2 "**§ 74F-11. Photo identification.**

3 Every person licensed under this Chapter shall be issued a photo identification card
4 by the Board. The card shall display a current photograph of the person, the person's
5 name, address, and telephone number. The licensee shall have the photograph
6 identification card available for inspection while performing locksmith services.

7 "**§ 74F-12. Posting licenses; advertisements.**

8 (a) Every locksmith issued a license under this Chapter shall display the license
9 prominently in the locksmith's place of business.

10 (b) Every person advertising locksmith services performed by the person shall
11 include in the advertisement the identification number that is printed on the license
12 issued by the Board.

13 "**§ 74F-13. Responsibilities of employers.**

14 Every licensee under this Chapter shall provide to the Board the names of each
15 person employed by the licensee who either performs locksmith services or has access
16 to locksmith tools. The licensee shall notify the Board within 30 days of any change in
17 the information provided pursuant to this section.

18 "**§ 74F-14. Customer identification.**

19 When opening a locked door to any vehicle or residential or commercial property, a
20 licensee shall make a reasonable effort to verify that the customer is the legal owner of
21 the vehicle or property or is authorized by the legal owner to gain access to the vehicle
22 or property.

23 "**§ 74F-15. Disciplinary procedures.**

24 The Board may deny or refuse to renew, suspend, or revoke a license if the licensee
25 or applicant:

- 26 (1) Gives false information to or withholds information from the Board in
27 procuring or attempting to procure a license.
- 28 (2) Has been convicted of or pled guilty or no contest to a crime that
29 indicates that the person is unfit or incompetent to perform locksmith
30 services, that involves moral turpitude, or that indicates the person has
31 deceived or defrauded the public.
- 32 (3) Has demonstrated gross negligence, incompetency, or misconduct in
33 performing locksmith services.
- 34 (4) Has willfully violated any of the provisions of this Chapter.

35 "**§ 74F-16. Exemptions.**

36 The provisions of this Chapter do not apply to:

- 37 (1) An employee of a licensed locksmith when acting under the control
38 and supervision of the licensed locksmith.
- 39 (2) A person working as an apprentice under the supervision of a licensed
40 locksmith while fulfilling the requirements for licensure when acting
41 under the control and supervision of the licensed locksmith.

- 1 (3) A person or business required to be licensed or registered by the North
2 Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of
3 the General Statutes, when acting within the scope and course of the
4 alarm systems license or registration.
- 5 (4) An employee of a towing service, a reposessor, a taxi cab service, or
6 motor club as defined in G.S. 58-69-1 when opening automotive locks
7 in the normal course of their duties so long as the employee does not
8 represent himself or herself as a locksmith.
- 9 (5) A property owner, or the owner's employee, when providing locksmith
10 services on the property owner's property, so long as the owner or
11 employee does not represent himself or herself as a locksmith. For
12 purposes of this section, 'property' means, but is not limited to, a hotel,
13 motel, apartment, condominium, commercial rental property, and
14 residential rental property.
- 15 (6) A merchant, or retail or hardware store, when it lawfully duplicates
16 keys or installs, services, repairs, rebuilds, reprograms, rekeys, or
17 maintains locks in the normal course of its business, so long as the
18 merchant or store does not represent itself as a locksmith.
- 19 (7) A member of a law enforcement agency, fire department or other
20 government agency who, when acting within the scope and course of
21 the member's employment with the agency or department, opens
22 locked doors to vehicles, homes, or businesses.
- 23 (8) A salesperson while demonstrating the use of locksmith tools to
24 persons licensed under this Chapter.
- 25 (9) A general contractor licensed under Article 1 of Chapter 87 of the
26 General Statutes, when acting within the scope and course of the
27 general contractor license.
- 28 (10) A person or business when lawfully installing or maintaining a safety
29 lock device on a wastewater system, when the safety lock device is
30 required by permit or requested by the owner of the wastewater
31 system, provided the person or business does not represent itself as a
32 locksmith. For purposes of this subdivision, 'wastewater system' has
33 the same meaning as in G.S. 130A-334.
- 34 (11) Any person or firm that sells gun safes or locking devices for firearms
35 when acting within the scope and course of the sale of gun safes or
36 locking devices for firearms.
- 37 (12) A person while performing a locksmith service in an emergency
38 situation without receiving any compensation for this service and who
39 does not advertise those services.

40 **"§ 74F-17. Injunctions.**

1 The Board may apply to the superior court for an order enjoining violations of this
2 Chapter. Upon a showing by the Board that any person has violated this Chapter, the
3 court may grant injunctive relief."

4 **SECTION 2.** Any person who submits proof to the Board that the person
5 has been actively engaged as a locksmith in this State for at least two consecutive years
6 prior to the effective date of this act and pays the required fee for the issuance of a
7 license under G.S. 74F-9, enacted by Section 1 of this act, shall be licensed without
8 having to satisfy the requirements of G.S. 74F-7(3), enacted by Section 1 of this act.
9 All persons who do not make application to the Board within one year of the effective
10 date of this act shall be required to complete all requirements prescribed by the Board
11 and to otherwise comply with the provisions of Chapter 74F, enacted by Section 1 of
12 this act.

13 **SECTION 3.** G.S. 74F-5 and G.S. 74F-6, as enacted in Section 1 of this act,
14 and Section 3 of this act are effective when the act becomes law. The remainder of the
15 act becomes effective July 1, 2002.