

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2185*

Short Title: Proprietary School Bond.

(Public)

Sponsors: Representatives Decker; Nye, Tart, McLaughlin, Walker, Greenwood, and Bowman.

Referred to: Education.

May 31, 1990

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE BOND REQUIREMENTS FOR PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-95 reads as rewritten:

"§ 115D-95. ~~Execution of bond required; filing and recording; actions upon bond. (a) Before the State Board of Community Colleges shall issue such license the person, partnership, association of persons, or corporation shall execute a bond in the sum of one thousand dollars (\$1,000), signed by a solvent guaranty company authorized to do business in the State of North Carolina, or by two solvent individual sureties, payable to the State of North Carolina, and approved as to solvency by the clerk of the superior court of the county in which such school or branch school will be located and conduct its business, conditioned that the principal in said bond will carry out and comply with each and every contract, made and entered into by said school or branch school, acting by and through its officers and agents with any student who desires to enter such school or branch school and to take any courses offered therein and will pay back to such student all amounts collected in tuition and fees in case of failure on the part of the parties obtaining a license from the State Board of Community Colleges to open and conduct a business school, trade school or a correspondence school, to comply with its contracts to give the instructions contracted for, and for full period evidenced by such~~

~~contract. Such bond shall be filed with the clerk of the superior court of the county in which the school or branch school executing the bond is located, and shall be recorded by such clerk in a book provided for that purpose.~~

~~(b) The requirement herein specified for giving the aforesaid bond of one thousand dollars (\$1,000) shall apply to all business, trade or correspondence schools, or any branches thereof operating in North Carolina, and the State Board of Community Colleges shall not issue any license to any person, firm or corporation to operate any of the aforesaid schools until said bond has been given and notice of the approval of same by the clerk of the superior court has been filed with said Board of Community Colleges. Operator bonds of one thousand dollars (\$1,000) each shall be required for each branch of such business, trade, correspondence schools, or any branch thereof operated within the State by any person, partnership or corporation.~~

~~(c) In any and all cases where the party receiving the license from the State Board of Community Colleges fails to comply with any contract made and entered into with any student, or with the parents or guardian of said student, then the State of North Carolina upon the relation of said student, parent or guardian entering into the contract shall have a cause of action against the principal and sureties on the bonds herein provided for the full amount of payments made to such person, with six percent (6%) interest from the date of payment of said amount. For a violation of its contract with a student, or for other good cause, the State Board of Community Colleges is authorized to revoke the license issued to the offending school.~~

Bonds required.

~~(a) A guaranty bond is required for each school that is licensed to operate: Provided, however, a school that is unable to secure a bond may, with the consent of the State Board of Community Colleges, provide an alternative to a guaranty bond, as provided in subsection (c) of this section.~~

~~The State Board may revoke the license of a school that fails to maintain a bond or an alternative to a bond, pursuant to this section.~~

~~(b) (1) When application is made for a license or license renewal, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, foreclosure, or the school ceasing to operate.~~

~~(2) The bond shall be in an amount determined by the State Board of Community Colleges to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The~~

1 bond amount for a school shall be at least equal to the maximum
2 amount of prepaid tuition held at any time during the last fiscal year by
3 the school. The bond amount shall also be at least ten thousand dollars
4 (\$10,000).

5 Each application for a license shall include a letter signed by an
6 authorized representative of the school showing in detail the
7 calculations made and the method of computing the amount of the
8 bond, pursuant to this subdivision and the rules of the State Board. If
9 the State Board finds that the calculations made and the method of
10 computing the amount of the bond are inaccurate or that the amount of
11 the bond is otherwise inadequate to provide indemnification under the
12 terms of the bond, the State Board may require the applicant to provide
13 an additional bond.

14 (3) The bond shall remain in force and effect until cancelled by the
15 guarantor. The guarantor may cancel the bond upon 30 days notice to
16 the State Board of Community Colleges. Cancellation of the bond shall
17 not affect any liability incurred or accrued prior to the termination of
18 the notice period.

19 (c) An applicant that is unable to secure a bond may seek a waiver of the
20 guaranty bond from the State Board of Community Colleges and approval of one of the
21 guaranty bond alternatives set forth in this subsection. With the approval of the State
22 Board, an applicant may file with the clerk of the superior court of the county in which
23 the school will be located, in lieu of a bond:

24 (1) An assignment of a savings account in an amount equal to the bond
25 required (i) which is in a form acceptable to the State Board of
26 Community Colleges; (ii) which is executed by the applicant; and (iii)
27 which is executed by a state or federal savings and loan association,
28 state bank, or national bank, that is doing business in North Carolina
29 and whose accounts are insured by a federal depositors corporation;
30 and (iv) for which access to the account in favor of the State of North
31 Carolina is subject to the same conditions as for a bond in subsection
32 (b) of this section.

33 (2) A certificate of deposit (i) which is executed by a state or federal
34 savings and loan association, state bank, or national bank, which is
35 doing business in North Carolina and whose accounts are insured by a
36 federal depositors corporation; and (ii) which is either payable to the
37 State of North Carolina, unrestrictively endorsed to the State Board of
38 Community Colleges; in the case of a negotiable certificate of deposit,
39 is unrestrictively endorsed to the State Board of Community Colleges;
40 or in the case of a nonnegotiable certificate of deposit, is assigned to
41 the State Board of Community Colleges in a form satisfactory to the
42 State Board; and (iii) for which access to the certificate of deposit in
43 favor of the State of North Carolina is subject to the same conditions
44 as for a bond in subsection (b) of this section."

1 Sec. 2. G.S. 116-15 reads as rewritten:

2 **"§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.**

3 The General Assembly of North Carolina in recognition of the importance of higher
4 education and of the particular significance attached to the personal credentials
5 accessible through higher education and in consonance with statutory law of this State
6 making unlawful any 'unfair or deceptive acts or practices in the conduct of any trade or
7 commerce,' hereby declares it the policy of this State that all institutions conducting
8 post-secondary degree activity in this State that are not subject to Chapter 115 or 115D
9 of the General Statutes, nor some other section of Chapter 116 of the General Statutes
10 shall be subject to licensure under this section except as the institution or a particular
11 activity of the institution may be exempt from licensure by one or another provision of
12 this section.

13 (a) Definitions. – As used in this section the following terms are defined as set
14 forth in this subsection:

15 (1) 'Post-secondary degree'. A credential conferring on the recipient
16 thereof the title of 'Associate', 'Bachelor', 'Master', or 'Doctor', or an
17 equivalent title, signifying educational attainment based on (i) study,
18 (ii) a substitute for study in the form of equivalent experience or
19 achievement testing, or (iii) a combination of the foregoing; provided,
20 that 'post-secondary degree' shall not include any honorary degree or
21 other so-called 'unearned' degree.

22 (2) 'Institution'. Any sole proprietorship, group, partnership, venture,
23 society, company, corporation, school, college, or university that
24 engages in, purports to engage in, or intends to engage in any type of
25 post-secondary degree activity.

26 (3) 'Post-secondary degree activity'. Any of the following is 'post-
27 secondary degree activity':

28 (i) Awarding a post-secondary degree.

29 (ii) Conducting or offering study, experience, or testing for an
30 individual or certifying prior successful completion by an
31 individual of study, experience, or testing, under the
32 representation that the individual successfully completing the
33 study, experience, or testing will be awarded therefor, at least in
34 part, a post-secondary degree.

35 (4) 'Publicly registered name'. The name of any sole proprietorship,
36 group, partnership, venture, society, company, corporation, school,
37 college, or institution that appears as the subject of any Articles of
38 Incorporation, Articles of Amendment, or Certificate of Authority to
39 Transact Business or to Conduct Affairs, properly filed with the
40 Secretary of State of North Carolina and currently in force.

41 (5) 'Board'. The Board of Governors of The University of North Carolina.

42 (b) Required License. – No institution subject to this section shall undertake post-
43 secondary degree activity in this State, whether through itself or through an agent,

1 unless the institution is licensed as provided in this section to conduct post-secondary
2 degree activity or is exempt from licensure under this section as hereinafter provided.

3 (c) Exemption from Licensure. – Any institution that has been continuously
4 conducting post-secondary degree activity in this State under the same publicly
5 registered name or series of publicly registered names since July 1, 1972, shall be
6 exempt from the provisions for licensure under this section upon presentation to the
7 Board of information acceptable to the Board to substantiate such post-secondary
8 degree activity and public registration of the institution's names. Any institution that,
9 pursuant to a predecessor statute to this subsection, had presented to the Board proof of
10 activity and registration such that the Board granted exemption from licensure, shall
11 continue to enjoy such exemption without further action by the Board.

12 (d) Exemption of Institutions Relative to Religious Education. – Notwithstanding
13 any other provision of this section, no institution shall be subject to licensure under this
14 section with respect to post-secondary degree activity based upon a program of study,
15 equivalent experience, or achievement testing the institutionally planned objective of
16 which is the attainment of a degree in theology, divinity, or religious education or in any
17 other program of study, equivalent experience, or achievement testing that is designed
18 by the institution primarily for career preparation in a religious vocation. This
19 exemption shall be extended to any institution with respect to each program of study,
20 equivalent experience, and achievement test that the institution demonstrates to the
21 satisfaction of the Board should be exempt under this subsection.

22 (e) Post-secondary Degree Activity within the Military. – To the extent that an
23 institution undertakes post-secondary degree activity on the premises of military posts
24 or reservations located in this State for military personnel stationed on active duty there,
25 or their dependents, the institution shall be exempt from the licensure requirements of
26 this section.

27 (f) Standards for Licensure. – To receive a license to conduct post-secondary
28 degree activity in this State, an institution shall satisfy the Board that the institution has
29 met the following standards:

30 (1) That the institution is State-chartered. If chartered by a state or
31 sovereignty other than North Carolina, the institution shall also obtain
32 a Certificate of Authority to Transact Business or to Conduct Affairs in
33 North Carolina issued by the Secretary of State of North Carolina;

34 (2) That the institution has been conducting post-secondary degree activity
35 in a state or sovereignty other than North Carolina during consecutive,
36 regular-term, academic semesters, exclusive of summer sessions, for at
37 least the two years immediately prior to submitting an application for
38 licensure under this section, or has been conducting with enrolled
39 students, for a like period in this State or some other state or
40 sovereignty, post-secondary educational activity not related to a post-
41 secondary degree; provided, that an institution may be temporarily
42 relieved of this standard under the conditions set forth in subsection
43 (i), below;

- 1 (3) That the substance of each course or program of study, equivalent
2 experience, or achievement test is such as may reasonably and
3 adequately achieve the stated objective for which the study,
4 experience, or test is offered or to be certified as successfully
5 completed;
- 6 (4) That the institution has adequate space, equipment, instructional
7 materials, and personnel available to it to provide education of good
8 quality;
- 9 (5) That the education, experience, and other qualifications of directors,
10 administrators, supervisors, and instructors are such as may reasonably
11 insure that the students will receive, or will be reliably certified to have
12 received, education consistent with the stated objectives of any course
13 or program of study, equivalent experience, or achievement test
14 offered by the institution;
- 15 (6) That the institution provides students and other interested persons with
16 a catalog or brochure containing information describing the substance,
17 objectives, and duration of the study, equivalent experience, and
18 achievement testing offered, a schedule of related tuition, fees, and all
19 other necessary charges and expenses, cancellation and refund
20 policies, and such other material facts concerning the institution and
21 the program or course of study, equivalent experience, and
22 achievement testing as are reasonably likely to affect the decision of
23 the student to enroll therein, together with any other disclosures that
24 may be specified by the Board; and that such information is provided
25 to prospective students prior to enrollment;
- 26 (7) That upon satisfactory completion of study, equivalent experience, or
27 achievement test, the student is given appropriate educational
28 credentials by the institution, indicating that the relevant study,
29 equivalent experience, or achievement testing has been satisfactorily
30 completed by the students;
- 31 (8) That records are maintained by the institution adequate to reflect the
32 application of relevant performance or grading standards to each
33 enrolled student;
- 34 (9) That the institution is maintained and operated in compliance with all
35 pertinent ordinances and laws, including rules and regulations adopted
36 pursuant thereto, relative to the safety and health of all persons upon
37 the premises of the institution;
- 38 (10) That the institution is financially sound and capable of fulfilling its
39 commitments to ~~students~~, students and that the institution has provided
40 a bond as provided in subsection (f1) of this section;
- 41 (11) That the institution, through itself or those with whom it may contract,
42 does not engage in promotion, sales, collection, credit, or other
43 practices of any type which are false, deceptive, misleading, or unfair;

- 1 (12) That the chief executive officer, trustees, directors, owners,
2 administrators, supervisors, staff, instructors, and employees of the
3 institution have no record of unprofessional conduct or incompetence
4 that would reasonably call into question the overall quality of the
5 institution;
- 6 (13) That the student housing owned, maintained, or approved by the
7 institution, if any, is appropriate, safe, and adequate;
- 8 (14) That the institution has a fair and equitable cancellation and refund
9 policy; and
- 10 (15) That no person or agency with whom the institution contracts has a
11 record of unprofessional conduct or incompetence that would
12 reasonably call into question the overall quality of the institution.

13 (fl) (1) A guaranty bond is required for each institution that is
14 licensed. The Board may revoke the license of an institution that
15 fails to maintain a bond pursuant to this subsection.

16 If the institution has provided a bond pursuant to G.S. 115D-95, the
17 Board may waive the bond requirement under this subsection. The
18 Board may not waive the bond requirement under this subsection if the
19 applicant has provided an alternative to a guaranty bond under G.S.
20 115D-95(c).

21 (2) When application is made for a license or license renewal, the
22 applicant shall file a guaranty bond with the clerk of the superior court
23 of the county in which the institution will be located. The bond shall
24 be in favor of the students. The bond shall be executed by the applicant
25 as principal and by a bonding company authorized to do business in
26 this State. The bond shall be conditioned to provide indemnification to
27 any student, or his parent or guardian, who has suffered a loss of
28 tuition or any fees by reason of the failure of the institution to offer or
29 complete student instruction, academic services, or other goods and
30 services related to course enrollment for any reason, including the
31 suspension, revocation, or nonrenewal of an institution's license,
32 bankruptcy, foreclosure, or the institution ceasing to operate.

33 The bond shall be in an amount determined by the Board to be
34 adequate to provide indemnification to any student, or his parent or
35 guardian, under the terms of the bond. The bond amount for an
36 institution shall be at least equal to the maximum amount of prepaid
37 tuition held at any time during the last fiscal year by the institution.
38 The bond amount shall also be at least ten thousand dollars (\$10,000).

39 Each application for a license shall include a letter signed by an
40 authorized representative of the institution showing in detail the
41 calculations made and the method of computing the amount of the
42 bond, pursuant to this subdivision and the rules of the Board. If the
43 Board finds that the calculations made and the method of computing
44 the amount of the bond are inaccurate or that the amount of the bond is

1 otherwise inadequate to provide indemnification under the terms of the
2 bond, the Board may require the applicant to provide an additional
3 bond.

4 The bond shall remain in force and effect until cancelled by the
5 guarantor. The guarantor may cancel the bond upon 30 days notice to
6 the Board. Cancellation of the bond shall not affect any liability
7 incurred or accrued prior to the termination of the notice period.

8 (g) Review of Licensure. – Any institution that acquires licensure under this
9 section shall be subject to review by the Board to determine that the institution
10 continues to meet the standard for licensure of subsection (f), above. Review of such
11 licensure by the Board shall always occur if the institution is legally reconstituted, or if
12 ownership of a preponderance of all the assets of the institution changes pursuant to a
13 single transaction or agreement or a recognizable sequence of transactions or
14 agreements, or if two years has elapsed since licensure of the institution was granted by
15 the Board.

16 Notwithstanding the foregoing paragraph, if an institution has continued to be
17 licensed under this section and continuously conducted post-secondary degree activity
18 in this State under the same publicly registered name or series of publicly registered
19 names since July 1, 1979, or for six consecutive years, whichever is the shorter period,
20 and is accredited by an accrediting commission recognized by the Council on Post-
21 Secondary Accreditation, such institution shall be subject to licensure review by the
22 Board every six years to determine that the institution continues to meet the standard for
23 licensure of subsection (f), above. However, should such an institution cease to maintain
24 the specified accreditation, become legally reconstituted, have ownership of a
25 preponderance of all its assets transferred pursuant to a single transaction or agreement
26 or a recognizable sequence of transactions or agreements to a person or organization not
27 licensed under this section, or fail to meet the standard for licensure of subsection (f),
28 above, then the institution shall be subject to licensure review by the Board every two
29 years until a license to conduct post-secondary degree activity and the requisite
30 accreditation have been restored for six consecutive years.

31 (h) Denial and Revocation of Licensure. – Any institution seeking licensure
32 under the provisions of this section that fails to meet the licensure requirements of this
33 section shall be denied a license to conduct post-secondary degree activity in this State.
34 Any institution holding a license to conduct post-secondary degree activity in this State
35 that is found by the Board of Governors not to satisfy the licensure requirements of this
36 section shall have its license to conduct post-secondary degree activity in this State
37 revoked by the Board; provided, that the Board of Governors may continue in force the
38 license of an institution deemed by the Board to be making substantial and expeditious
39 progress toward remedying its licensure deficiencies.

40 (i) Regulatory Authority in the Board. – The Board shall have authority to
41 establish such rules, regulations, and procedures as it may deem necessary or
42 appropriate to effect the provisions of this section. Such rules, regulations, and
43 procedures may include provision for the granting of an interim permit to conduct post-

1 secondary degree activity in this State to an institution seeking licensure but lacking the
2 two-year period of activity prescribed by subsection (f)(2), above.

3 (j) Enforcement Authority in the Attorney General. – The Board shall call to the
4 attention of the Attorney General, for such action as he may deem appropriate, any
5 institution failing to comply with the requirements of this section.

6 (k) Severability. – The provisions of this section are severable, and, if any
7 provision of this section is declared unconstitutional or invalid by the courts, such
8 declaration shall not affect the validity of the section as a whole or any provision other
9 than the provision so declared to be unconstitutional or invalid."

10 Sec. 3. G.S. 86A-22 reads as rewritten:

11 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

12 The North Carolina State Board of Barber Examiners may approve barber schools or
13 colleges in the State, and may prescribe rules and regulations for their operation. No
14 barber school or college shall be approved by the Board unless the school or college
15 meets all of the following requirements:

16 (1) Each school shall provide a course of instruction of at least 1528
17 hours.

18 (2) Each school shall have at least two instructors. Each instructor must
19 hold a valid instructor's certificate issued by the Board.

20 (3) An application for a student's permit and a doctor's certificate, on
21 forms prescribed by the Board, must be filed with the Board before the
22 student enters school. No student may enroll without having obtained a
23 student's permit.

24 (4) Each student enrolled shall be given a complete course of instruction
25 on the following subjects: hair cutting; shaving; shampooing, and the
26 application of creams and lotions; care and preparation of tools and
27 implements; scientific massaging and manipulating the muscles of the
28 scalp, face, and neck; sanitation and hygiene; shedding and regrowth
29 of hair; elementary chemistry relating to sterilization and antiseptics;
30 instruction on common skin and scalp diseases to the extent that they
31 may be recognized; pharmacology as it relates to preparations
32 commonly used in barbershops; instruction in the use of electrical
33 appliances and the effects of the use of these on the human skin;
34 structure of the skin and hair; nerve points of the face; the application
35 of hair dyes and bleaches; permanent waving; marcelling or hair
36 pressing; frosting and streaking; and the statutes and regulations
37 relating to the practice of barbering in North Carolina. The Board shall
38 specify the minimum number of hours of instruction for each subject
39 required by this subsection.

40 (5) Each school shall file an up-to-date list of its students with the Board
41 at least once a month. If a student withdraws or transfers, the school
42 shall file a report with the Board stating the courses and hours
43 completed by the withdrawing or transferring student. The school shall

1 also file with the Board a list of students who have completed the
2 amount of work necessary to meet the licensing requirements.

3 (6) Each school shall comply with the sanitary requirements of G.S. 86A-
4 15.

5 (7) a. Each school shall provide a guaranty bond unless the school has
6 already provided a bond or an alternative to a bond under G.S. 115D-
7 95.

8 The North Carolina State Board of Barber Examiners may
9 revoke the approval of a school that fails to maintain a bond or
10 an alternative to a bond pursuant to this subdivision or G.S.
11 115D-95.

12 b. When application is made for approval or renewal of approval,
13 the applicant shall file a guaranty bond with the clerk of the
14 superior court of the county in which the school will be located.
15 The bond shall be in favor of the students. The bond shall be
16 executed by the applicant as principal and by a bonding
17 company authorized to do business in this State. The bond shall
18 be conditioned to provide indemnification to any student, or his
19 parent or guardian, who has suffered a loss of tuition or any fees
20 by reason of the failure of the school to offer or complete
21 student instruction, academic services, or other goods and
22 services related to course enrollment for any reason, including
23 the suspension, revocation, or nonrenewal of a school's
24 approval, bankruptcy, foreclosure, or the school ceasing to
25 operate.

26 The bond shall be in an amount determined by the Board to
27 be adequate to provide indemnification to any student, or his
28 parent or guardian, under the terms of the bond. The bond
29 amount for a school shall be at least equal to the maximum
30 amount of prepaid tuition held at any time during the last fiscal
31 year by the school. The bond amount shall also be at least ten
32 thousand dollars (\$10,000).

33 Each application for approval shall include a letter signed by
34 an authorized representative of the school showing in detail the
35 calculations made and the method of computing the amount of
36 the bond pursuant to this subpart and the rules of the Board. If
37 the Board finds that the calculations made and the method of
38 computing the amount of the bond are inaccurate or that the
39 amount of the bond is otherwise inadequate to provide
40 indemnification under the terms of the bond, the Board may
41 require the applicant to provide an additional bond.

42 The bond shall remain in force and effect until cancelled by
43 the guarantor. The guarantor may cancel the bond upon 30 days
44 notice to the Board. Cancellation of the bond shall not affect

1 any liability incurred or accrued prior to the termination of the
2 notice period.

3 c. An applicant that is unable to secure a bond may seek a waiver
4 of the guaranty bond from the Board and approval of one of the
5 guaranty bond alternatives set forth in this subpart. With the
6 approval of the Board, an applicant may file with the clerk of
7 the superior court of the county in which the school will be
8 located, in lieu of a bond:

9 1. An assignment of a savings account in an amount equal
10 to the bond required (i) which is in a form acceptable to
11 the Board; (ii) which is executed by the applicant; and
12 (iii) which is executed by a state or federal savings and
13 loan association, state bank, or national bank, that is
14 doing business in North Carolina and whose accounts are
15 insured by a federal depositors corporation; and (iv) for
16 which access to the account in favor of the State of North
17 Carolina is subject to the same conditions as for a bond
18 in subpart b. above.

19 2. A certificate of deposit (i) which is executed by a state or
20 federal savings and loan association, state bank, or
21 national bank, which is doing business in North Carolina
22 and whose accounts are insured by a federal depositors
23 corporation; and (ii) which is either payable to the State
24 of North Carolina, unrestrictively endorsed to the Board;
25 in the case of a negotiable certificate of deposit, is
26 unrestrictively endorsed to the Board; or in the case of a
27 nonnegotiable certificate of deposit, is assigned to the
28 Board in a form satisfactory to the Board; and (iii) for
29 which access to the certificate of deposit in favor of the
30 State of North Carolina is subject to the same conditions
31 as for a bond in subpart b. above."

32 Sec. 4. Chapter 88 of the General Statutes is amended by adding a new
33 section to read:

34 "§ 88-23.1. Bond required for cosmetic art schools.

35 (a) Each cosmetic art school shall provide a guaranty bond unless the school has
36 already provided a bond or an alternative to a bond under G.S. 115D-95.

37 The Board of Cosmetic Art may refuse to renew or may suspend or revoke the
38 approval of a school that fails to maintain a bond or an alternative to a bond pursuant to
39 this section or G.S. 115D-95.

40 (b) (1) When application is made for an approval or approval
41 renewal, the applicant shall file a guaranty bond with the clerk of the
42 superior court of the county in which the school will be located. The
43 bond shall be in favor of the students. The bond shall be executed by
44 the applicant as principal and by a bonding company authorized to

1 do business in this State. The bond shall be conditioned to provide
2 indemnification to any student, or his parent or guardian, who has
3 suffered loss of tuition or any fees by reason of the failure of the
4 school to offer or complete student instruction, academic services, or
5 other goods and services related to course enrollment for any reason,
6 including but not limited to the suspension, revocation, or
7 nonrenewal of a school's approval, bankruptcy, foreclosure, or the
8 school ceasing to operate.

9 (2) The bond shall be in an amount determined by the Board of Cosmetic
10 Art to be adequate to provide indemnification to any student, or his
11 parent or guardian, under the terms of the bond. The bond amount for a
12 school shall be at least equal to the maximum amount of prepaid
13 tuition held at any time during the last fiscal year by the school. The
14 bond amount shall also be at least ten thousand dollars (\$10,000).

15 Each application for a license shall include a letter signed by an
16 authorized representative of the school showing in detail the
17 calculations made and the method of computing the amount of the
18 bond, pursuant to this subdivision and the rules of the Board. If the
19 Board finds that the calculations made and the method of computing
20 the amount of the bond are inaccurate or that the amount of the bond is
21 otherwise inadequate to provide indemnification under the terms of the
22 bond, the Board may require the applicant to provide an additional
23 bond.

24 (3) The bond shall remain in force and effect until cancelled by the
25 guarantor. The guarantor may cancel the bond upon 30 days notice to
26 the Board of Cosmetic Art. Cancellation of the bond shall not affect
27 any liability incurred or accrued prior to the termination of the notice
28 period.

29 (c) An applicant that is unable to secure a bond may seek a waiver of the
30 guaranty bond from the Board of Cosmetic Art and approval of one of the guaranty
31 bond alternatives set forth in this subsection. With the approval of the Board, an
32 applicant may file with the clerk of the superior court of the county in which the school
33 will be located, in lieu of a bond:

34 (1) An assignment of a savings account in an amount equal to the bond
35 required (i) which is in a form acceptable to the Board of Cosmetic
36 Art; (ii) which is executed by the applicant; and (iii) which is executed
37 by a state or federal savings and loan association, state bank, or
38 national bank, that is doing business in North Carolina and whose
39 accounts are insured by a federal depositors corporation; and (iv) for
40 which access to the account in favor of the State of North Carolina is
41 subject to the same conditions as for a bond in subsection (b) of this
42 section.

43 (2) A certificate of deposit (i) which is executed by a state or federal
44 savings and loan association, state bank, or national bank, which is

1 doing business in North Carolina and whose accounts are insured by a
2 federal depositories corporation; and (ii) which is either payable to the
3 State of North Carolina, unrestrictively endorsed to the Board of
4 Cosmetic Art; in the case of a negotiable certificate of deposit, is
5 unrestrictively endorsed to the Board of Cosmetic Art; or in the case of
6 a nonnegotiable certificate of deposit, is assigned to the Board of
7 Cosmetic Art in a form satisfactory to the Board; and (iii) for which
8 access to the certificate of deposit in favor of the State of North
9 Carolina is subject to the same conditions as for a bond in subsection
10 (b) of this section."

11 Sec. 5. G.S. 90-171.55 reads as rewritten:

12 **"§ 90-171.55. Nurses Aides Registry.**

13 (a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish
14 a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The
15 Board shall consider those Level I nurses aides employed in State licensed or
16 Medicare/Medicaid certified nursing facilities who meet applicable State and federal
17 registry requirements as adopted by the North Carolina Medical Care Commission as
18 having fulfilled the training and registry requirements of the Board, except for the fee
19 requirements prescribed by this section. The Board may charge an annual fee of five
20 dollars (\$5.00) for each registry applicant. The Board shall adopt rules to ensure that
21 whenever possible, the fee is collected through the employer or prospective employer of
22 the registry applicant. Fees collected may be used by the Board in administering the
23 registry. The Board's authority granted by this Article shall not conflict with the
24 authority of the Medical Care Commission.

25 (b) (1) Each nurses aide training program, except for those operated
26 by (i) institutions under the Board of Governors of The University of
27 North Carolina, (ii) institutions of the North Carolina Community
28 College System, (iii) public high schools, and (iv) hospital
29 authorities acting pursuant to G.S. 131E-23(31), shall provide a
30 guaranty bond unless the program has already provided a bond or an
31 alternative to a bond under G.S. 115D-95. The Board of Nursing
32 may revoke the approval of a program that fails to maintain a bond
33 or an alternative to a bond pursuant to this subsection or G.S. 115D-
34 95.

35 (2) When application is made for approval or renewal of approval, the
36 applicant shall file a guaranty bond with the clerk of the superior court
37 of the county in which the program will be located. The bond shall be
38 in favor of the students. The bond shall be executed by the applicant as
39 principal and by a bonding company authorized to do business in this
40 State. The bond shall be conditioned to provide indemnification to any
41 student, or his parent or guardian, who has suffered a loss of tuition or
42 any fees by reason of the failure of the program to offer or complete
43 student instruction, academic services, or other goods and services
44 related to course enrollment for any reason, including the suspension,

1 revocation, or nonrenewal of a program's approval, bankruptcy,
2 foreclosure, or the program ceasing to operate.

3 The bond shall be in an amount determined by the Board to be
4 adequate to provide indemnification to any student, or his parent or
5 guardian, under the terms of the bond. The bond amount for a program
6 shall be at least equal to the maximum amount of prepaid tuition held
7 at any time during the last fiscal year by the program. The bond
8 amount shall also be at least ten thousand dollars (\$10,000).

9 Each application for a license shall include a letter signed by an
10 authorized representative of the program showing in detail the
11 calculations made and the method of computing the amount of the
12 bond pursuant to this subdivision and the rules of the Board. If the
13 Board finds that the calculations made and the method of computing
14 the amount of the bond are inaccurate or that the amount of the bond is
15 otherwise inadequate to provide indemnification under the terms of the
16 bond, the Board may require the applicant to provide an additional
17 bond.

18 The bond shall remain in force and effect until cancelled by the
19 guarantor. The guarantor may cancel the bond upon 30 days notice to
20 the Board. Cancellation of the bond shall not affect any liability
21 incurred or accrued prior to the termination of the notice period.

22 (3) An applicant that is unable to secure a bond may seek a waiver of the
23 guaranty bond from the Board and approval of one of the guaranty
24 bond alternatives set forth in this subdivision. With the approval of the
25 Board, an applicant may file with the clerk of the superior court of the
26 county in which the program will be located, in lieu of a bond:

27 a. An assignment of a savings account in an amount equal to the
28 bond required (i) which is in a form acceptable to the Board; (ii)
29 which is executed by the applicant; and (iii) which is executed
30 by a state or federal savings and loan association, state bank, or
31 national bank, that is doing business in North Carolina and
32 whose accounts are insured by a federal depositors corporation;
33 and (iv) for which access to the account in favor of the State of
34 North Carolina is subject to the same conditions as for a bond in
35 subdivision (2) of this subsection.

36 b. A certificate of deposit (i) which is executed by a state or
37 federal savings and loan association, state bank, or national
38 bank, which is doing business in North Carolina and whose
39 accounts are insured by a federal depositors corporation; and
40 (ii) which is either payable to the State or North Carolina,
41 unrestrictively endorsed to the Board; in the case of a
42 negotiable certificate of deposit, is unrestrictively endorsed to
43 the Board; or in the case of a nonnegotiable certificate of
44 deposit, is assigned to the Board in a form satisfactory to the

1 Board; and (iii) for which access to the certificate of deposit in
2 favor of the State of North Carolina is subject to the same
3 conditions as for a bond in subdivision (2) of this subsection."

4 Sec. 6. This act shall become effective October 1, 1990.