

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1476*

Short Title: Proprietary School Bond.

(Public)

Sponsors: Senators Martin of Guilford; Chalk and Conder.

Referred to: Higher Education.

June 4, 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 bond amount for a school shall be at least equal to the maximum~~

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

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

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

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

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

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

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

1 **"§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.**

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

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

- 14 (1) 'Post-secondary degree'. A credential conferring on the recipient
15 thereof the title of 'Associate', 'Bachelor', 'Master', or 'Doctor', or an
16 equivalent title, signifying educational attainment based on (i) study,
17 (ii) a substitute for study in the form of equivalent experience or
18 achievement testing, or (iii) a combination of the foregoing; provided,
19 that 'post-secondary degree' shall not include any honorary degree or
20 other so-called 'unearned' degree.
- 21 (2) 'Institution'. Any sole proprietorship, group, partnership, venture,
22 society, company, corporation, school, college, or university that
23 engages in, purports to engage in, or intends to engage in any type of
24 post-secondary degree activity.
- 25 (3) 'Post-secondary degree activity'. Any of the following is 'post-
26 secondary degree activity':
- 27 (i) Awarding a post-secondary degree.
- 28 (ii) Conducting or offering study, experience, or testing for an
29 individual or certifying prior successful completion by an
30 individual of study, experience, or testing, under the
31 representation that the individual successfully completing the
32 study, experience, or testing will be awarded therefor, at least in
33 part, a post-secondary degree.
- 34 (4) 'Publicly registered name'. The name of any sole proprietorship,
35 group, partnership, venture, society, company, corporation, school,
36 college, or institution that appears as the subject of any Articles of
37 Incorporation, Articles of Amendment, or Certificate of Authority to
38 Transact Business or to Conduct Affairs, properly filed with the
39 Secretary of State of North Carolina and currently in force.
- 40 (5) 'Board'. The Board of Governors of The University of North Carolina.

41 (b) Required License. – No institution subject to this section shall undertake post-
42 secondary degree activity in this State, whether through itself or through an agent,
43 unless the institution is licensed as provided in this section to conduct post-secondary
44 degree activity or is exempt from licensure under this section as hereinafter provided.

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

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

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

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

- 28 (1) That the institution is State-chartered. If chartered by a state or
29 sovereignty other than North Carolina, the institution shall also obtain
30 a Certificate of Authority to Transact Business or to Conduct Affairs in
31 North Carolina issued by the Secretary of State of North Carolina;
- 32 (2) That the institution has been conducting post-secondary degree activity
33 in a state or sovereignty other than North Carolina during consecutive,
34 regular-term, academic semesters, exclusive of summer sessions, for at
35 least the two years immediately prior to submitting an application for
36 licensure under this section, or has been conducting with enrolled
37 students, for a like period in this State or some other state or
38 sovereignty, post-secondary educational activity not related to a post-
39 secondary degree; provided, that an institution may be temporarily
40 relieved of this standard under the conditions set forth in subsection
41 (i), below;
- 42 (3) That the substance of each course or program of study, equivalent
43 experience, or achievement test is such as may reasonably and
44 adequately achieve the stated objective for which the study,

- 1 experience, or test is offered or to be certified as successfully
2 completed;
- 3 (4) That the institution has adequate space, equipment, instructional
4 materials, and personnel available to it to provide education of good
5 quality;
- 6 (5) That the education, experience, and other qualifications of directors,
7 administrators, supervisors, and instructors are such as may reasonably
8 insure that the students will receive, or will be reliably certified to have
9 received, education consistent with the stated objectives of any course
10 or program of study, equivalent experience, or achievement test
11 offered by the institution;
- 12 (6) That the institution provides students and other interested persons with
13 a catalog or brochure containing information describing the substance,
14 objectives, and duration of the study, equivalent experience, and
15 achievement testing offered, a schedule of related tuition, fees, and all
16 other necessary charges and expenses, cancellation and refund
17 policies, and such other material facts concerning the institution and
18 the program or course of study, equivalent experience, and
19 achievement testing as are reasonably likely to affect the decision of
20 the student to enroll therein, together with any other disclosures that
21 may be specified by the Board; and that such information is provided
22 to prospective students prior to enrollment;
- 23 (7) That upon satisfactory completion of study, equivalent experience, or
24 achievement test, the student is given appropriate educational
25 credentials by the institution, indicating that the relevant study,
26 equivalent experience, or achievement testing has been satisfactorily
27 completed by the students;
- 28 (8) That records are maintained by the institution adequate to reflect the
29 application of relevant performance or grading standards to each
30 enrolled student;
- 31 (9) That the institution is maintained and operated in compliance with all
32 pertinent ordinances and laws, including rules and regulations adopted
33 pursuant thereto, relative to the safety and health of all persons upon
34 the premises of the institution;
- 35 (10) That the institution is financially sound and capable of fulfilling its
36 commitments to ~~students;~~ students and that the institution has provided
37 a bond as provided in subsection (f1) of this section;
- 38 (11) That the institution, through itself or those with whom it may contract,
39 does not engage in promotion, sales, collection, credit, or other
40 practices of any type which are false, deceptive, misleading, or unfair;
- 41 (12) That the chief executive officer, trustees, directors, owners,
42 administrators, supervisors, staff, instructors, and employees of the
43 institution have no record of unprofessional conduct or incompetence

1 that would reasonably call into question the overall quality of the
2 institution;

3 (13) That the student housing owned, maintained, or approved by the
4 institution, if any, is appropriate, safe, and adequate;

5 (14) That the institution has a fair and equitable cancellation and refund
6 policy; and

7 (15) That no person or agency with whom the institution contracts has a
8 record of unprofessional conduct or incompetence that would
9 reasonably call into question the overall quality of the institution.

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

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

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

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

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

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

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

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

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

37 (i) Regulatory Authority in the Board. – The Board shall have authority to
38 establish such rules, regulations, and procedures as it may deem necessary or
39 appropriate to effect the provisions of this section. Such rules, regulations, and
40 procedures may include provision for the granting of an interim permit to conduct post-
41 secondary degree activity in this State to an institution seeking licensure but lacking the
42 two-year period of activity prescribed by subsection (f)(2), above.

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

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

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

9 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

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

- 14 (1) Each school shall provide a course of instruction of at least 1528
15 hours.
- 16 (2) Each school shall have at least two instructors. Each instructor must
17 hold a valid instructor's certificate issued by the Board.
- 18 (3) An application for a student's permit and a doctor's certificate, on
19 forms prescribed by the Board, must be filed with the Board before the
20 student enters school. No student may enroll without having obtained a
21 student's permit.
- 22 (4) Each student enrolled shall be given a complete course of instruction
23 on the following subjects: hair cutting; shaving; shampooing, and the
24 application of creams and lotions; care and preparation of tools and
25 implements; scientific massaging and manipulating the muscles of the
26 scalp, face, and neck; sanitation and hygiene; shedding and regrowth
27 of hair; elementary chemistry relating to sterilization and antiseptics;
28 instruction on common skin and scalp diseases to the extent that they
29 may be recognized; pharmacology as it relates to preparations
30 commonly used in barbershops; instruction in the use of electrical
31 appliances and the effects of the use of these on the human skin;
32 structure of the skin and hair; nerve points of the face; the application
33 of hair dyes and bleaches; permanent waving; marcelling or hair
34 pressing; frosting and streaking; and the statutes and regulations
35 relating to the practice of barbering in North Carolina. The Board shall
36 specify the minimum number of hours of instruction for each subject
37 required by this subsection.
- 38 (5) Each school shall file an up-to-date list of its students with the Board
39 at least once a month. If a student withdraws or transfers, the school
40 shall file a report with the Board stating the courses and hours
41 completed by the withdrawing or transferring student. The school shall
42 also file with the Board a list of students who have completed the
43 amount of work necessary to meet the licensing requirements.

- 1 (6) Each school shall comply with the sanitary requirements of G.S. 86A-
2 15.
- 3 (7) a. Each school shall provide a guaranty bond unless the school has
4 already provided a bond or an alternative to a bond under G.S. 115D-
5 95.

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

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

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

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

40 The bond shall remain in force and effect until cancelled by
41 the guarantor. The guarantor may cancel the bond upon 30 days
42 notice to the Board. Cancellation of the bond shall not affect
43 any liability incurred or accrued prior to the termination of the
44 notice period.

- 1 c. An applicant that is unable to secure a bond may seek a waiver
2 of the guaranty bond from the Board and approval of one of the
3 guaranty bond alternatives set forth in this subpart. With the
4 approval of the Board, an applicant may file with the clerk of
5 the superior court of the county in which the school will be
6 located, in lieu of a bond:
- 7 1. An assignment of a savings account in an amount equal
8 to the bond required (i) which is in a form acceptable to
9 the Board; (ii) which is executed by the applicant; and
10 (iii) which is executed by a state or federal savings and
11 loan association, state bank, or national bank, that is
12 doing business in North Carolina and whose accounts are
13 insured by a federal depositors corporation; and (iv) for
14 which access to the account in favor of the State of North
15 Carolina is subject to the same conditions as for a bond
16 in subpart b. above.
- 17 2. A certificate of deposit (i) which is executed by a state or
18 federal savings and loan association, state bank, or
19 national bank, which is doing business in North Carolina
20 and whose accounts are insured by a federal depositors
21 corporation; and (ii) which is either payable to the State
22 of North Carolina, unrestrictively endorsed to the Board;
23 in the case of a negotiable certificate of deposit, is
24 unrestrictively endorsed to the Board; or in the case of a
25 nonnegotiable certificate of deposit, is assigned to the
26 Board in a form satisfactory to the Board; and (iii) for
27 which access to the certificate of deposit in favor of the
28 State of North Carolina is subject to the same conditions
29 as for a bond in subpart b. above."

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

32 **"§ 88-23.1. Bond required for cosmetic art schools.**

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

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

38 (b) (1) When application is made for an approval or approval
39 renewal, the applicant shall file a guaranty bond with the clerk of the
40 superior court of the county in which the school will be located. The
41 bond shall be in favor of the students. The bond shall be executed by
42 the applicant as principal and by a bonding company authorized to
43 do business in this State. The bond shall be conditioned to provide
44 indemnification to any student, or his parent or guardian, who has

1 suffered loss of tuition or any fees by reason of the failure of the
2 school to offer or complete student instruction, academic services, or
3 other goods and services related to course enrollment for any reason,
4 including but not limited to the suspension, revocation, or
5 nonrenewal of a school's approval, bankruptcy, foreclosure, or the
6 school ceasing to operate.

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

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

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

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

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

41 (2) A certificate of deposit (i) which is executed by a state or federal
42 savings and loan association, state bank, or national bank, which is
43 doing business in North Carolina and whose accounts are insured by a
44 federal depositors corporation; and (ii) which is either payable to the

1 State of North Carolina, unrestrictively endorsed to the Board of
2 Cosmetic Art; in the case of a negotiable certificate of deposit, is
3 unrestrictively endorsed to the Board of Cosmetic Art; or in the case of
4 a nonnegotiable certificate of deposit, is assigned to the Board of
5 Cosmetic Art in a form satisfactory to the Board; and (iii) for which
6 access to the certificate of deposit in favor of the State of North
7 Carolina is subject to the same conditions as for a bond in subsection
8 (b) of this section."

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

10 **"§ 90-171.55. Nurses Aides Registry.**

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

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

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

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

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

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

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

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

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

1 favor of the State of North Carolina is subject to the same
2 conditions as for a bond in subdivision (2) of this subsection."
3 Sec. 6. This act shall become effective October 1, 1990.