

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

4

SENATE BILL 584\*  
Judiciary II Committee Substitute Adopted 4/20/09  
Finance Committee Substitute Adopted 5/27/09  
House Committee Substitute Favorable 7/1/09

Short Title: Amend Private Protective Services Act.

(Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PRIVATE PROTECTIVE SERVICES ACT, TO MAKE CONFORMING CHANGES TO THE ALARM SYSTEMS LICENSING ACT WITH RESPECT TO CRIMINAL BACKGROUND CHECKS, AND TO AUTHORIZE THE STUDY OF DIGITAL FORENSICS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 74C-3(b) is amended by adding a new subdivision to read:

"(b) "Private protective services" shall not include any of the following:

...

(17) A person engaged in (i) computer or digital forensic services or in the acquisition, review, or analysis of digital or computer-based information, whether for the purposes of obtaining or furnishing information for evidentiary or other purposes, or for providing expert testimony before a court; or (ii) network or system vulnerability testing, including network scans and risk assessment and analysis of computers connected to a network.

...."

**SECTION 2.** G.S. 74C-7 reads as rewritten:

**"§ 74C-7. Investigative powers of the Attorney General.**

The Attorney General for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this Chapter involving individuals licensed, or to be licensed, under this Chapter. Any investigation conducted pursuant to this section is confidential and is not subject to review under G.S. 132-1 until the investigation is complete and a report is presented to the Board. However, the report may be released to the licensee after the investigation is complete but before the report is presented to the Board.

**SECTION 3.** G.S. 74C-8 reads as rewritten:

**"§ 74C-8. ~~Applications for an issuance of license.~~ License requirements.**

(a) License Required. – Any person, firm, association, or corporation desiring to carry on or engage in the private protective services profession in this State shall be licensed in accordance with this Chapter.~~shall make a verified application in writing to the Board.~~

(b) Application. – To apply for a license, an applicant must submit a verified application in writing to the Board that includes all of the following:~~The application shall include:~~

(1) Full name, home address, post office box, and the actual street address of the ~~business of the applicant;~~applicant's business.



- 1 (2) The name under which the applicant intends to do ~~business;~~business.  
2 (3) A statement as to the general nature of the business in which the applicant  
3 intends to ~~engage;~~engage.  
4 (4) The full name and address of any partners in the business and the principal  
5 officers, directors and business manager, if ~~any;~~any.  
6 (5) The names of not less than three unrelated and disinterested persons as  
7 references of whom inquiry can be made as to the character, standing, and  
8 reputation of the persons making the ~~application;~~application.  
9 (6) Such other information, evidence, statements, or documents as may be  
10 required by the ~~Board;~~ and Board.  
11 (7) Accompanying trainee permit applications only, a notarized statement  
12 signed by the applicant and his employer stating that the trainee applicant  
13 will at all times work with and under the direct supervision of a licensed  
14 private detective.
- 15 (c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages  
16 in private protective services is subject to all of the requirements listed in this subsection with  
17 respect to a qualifying agent. For purposes of this Chapter, a 'qualifying agent' is an individual  
18 in a management position who is licensed under this Chapter and whose name and address have  
19 been registered with the Director. The requirements are:
- 20 (1) ~~A business entity other than a sole proprietorship shall not do business under~~  
21 ~~this Chapter unless the business entity has in its~~ The business entity shall  
22 employ a designated resident qualifying agent who meets the requirements  
23 for a license issued under this Chapter and who is, in fact, licensed under the  
24 provisions of this Chapter, unless otherwise approved by the Board.  
25 Provided however, that this approval shall not be given unless the business  
26 entity has and continuously maintains in this State a registered agent who  
27 shall be an individual resident in this State. Service upon the registered agent  
28 appointed by the business entity of any process, notice, or demand required  
29 by or permitted to be served upon the business entity by the Private  
30 Protective Services Board shall be binding upon the business entity and the  
31 licensee. Nothing herein contained shall limit or affect the right to serve any  
32 process, notice, or demand required or permitted by law to be served upon a  
33 business entity in any other manner now or hereafter permitted by law.
- 34 (2) ~~For the purposes of the Chapter a qualifying agent means an individual in a~~  
35 ~~management position who is licensed under this Chapter and whose name~~  
36 ~~and address have been registered with the Director.~~
- 37 (3) In the event that the qualifying agent upon whom the business entity relies in  
38 order to do business ceases to perform his duties as qualifying agent, the  
39 business entity shall notify the Director within 10 working days. The  
40 business entity must obtain a substitute qualifying agent within 30 days after  
41 the original qualifying agent ceases to serve as qualifying agent unless the  
42 Board, in its discretion, extends this period, for good cause, for a period of  
43 time not to exceed three months.
- 44 (4) The certificate authorizing the business entity to engage in a private  
45 protective services profession shall list the name of at least one designated  
46 qualifying agent. No licensee shall serve as the qualifying agent for more  
47 than one business entity without prior approval of the Director, subject to the  
48 approval of the Board.
- 49 (5) ~~The Department of Justice may provide a criminal record check to the~~  
50 ~~Private Protective Services Board for a person who has applied for a new or~~  
51 ~~renewal license, registration, certification, or permit through the Private~~

1 ~~Protective Services Board. The Board shall provide to the Department of~~  
2 ~~Justice, along with the request, the fingerprints of the applicant, any~~  
3 ~~additional information required by the Department of Justice, and a form~~  
4 ~~signed by the applicant consenting to the check of the criminal record and to~~  
5 ~~the use of the fingerprints and other identifying information required by the~~  
6 ~~State or national repositories. The applicant's fingerprints shall be forwarded~~  
7 ~~to the State Bureau of Investigation for a search of the State's criminal~~  
8 ~~history record file, and the State Bureau of Investigation shall forward a set~~  
9 ~~of the fingerprints to the Federal Bureau of Investigation for a national~~  
10 ~~criminal history check. The Board shall keep all information pursuant to this~~  
11 ~~subdivision privileged, in accordance with applicable State law and federal~~  
12 ~~guidelines, and the information shall be confidential and shall not be a public~~  
13 ~~record under Chapter 132 of the General Statutes.~~

14 ~~The Department of Justice may charge each applicant a fee for~~  
15 ~~conducting the checks of criminal history records authorized by this~~  
16 ~~subdivision.~~

17 (d) Criminal Record Check. – An applicant must meet all of the following requirements  
18 and qualifications determined by a background investigation conducted by the Board in  
19 accordance with G.S. 74C-8.1 and upon receipt of an application:~~Upon receipt of an~~  
20 ~~application, the Board shall conduct a background investigation during the course of which the~~  
21 ~~applicant shall be required to show that he meets all the following requirements and~~  
22 ~~qualifications hereby made prerequisite to obtaining a license:~~

- 23 (1) ~~That he the applicant is~~ at least 18 years of ~~age;~~age.  
24 (2) ~~That he the applicant is~~ of good moral character and temperate habits. The  
25 following shall be prima facie evidence that the applicant does not have  
26 good moral character or temperate habits: conviction by any local, State,  
27 federal, or military court of any crime involving the illegal use, carrying, or  
28 possession of a firearm; conviction of any crime involving the illegal use,  
29 possession, sale, manufacture, distribution, or transportation of a controlled  
30 substance, drug, narcotic, or alcoholic beverage; conviction of a crime  
31 involving felonious assault or an act of violence; conviction of a crime  
32 involving unlawful breaking or entering, burglary, larceny, or any offense  
33 involving moral turpitude; or a history of addiction to alcohol or a narcotic  
34 drug; provided that, for purposes of this subsection, "conviction" means and  
35 includes the entry of a plea of guilty or no contest or a verdict rendered in  
36 open court by a judge or ~~jury;~~jury.  
37 (3) Repealed by Session Laws 1989, c. 759, s. 6.  
38 (4) ~~That he the applicant has~~ the necessary training, qualifications, and  
39 experience in order to determine the applicant's competency and fitness as  
40 the Board may determine by rule for all licenses to be issued by the Board.

41 (e) Examination. – The Board may require the applicant to demonstrate his the  
42 applicant's qualifications by oral or written examination or by successful completion of a  
43 Board-approved training program, or all three.

44 (f) Issuance. – Upon a finding that the application is in proper form, the completion of  
45 the background investigation, and the completion of an examination required by the Board, the  
46 Director shall submit to the Board the application and his the Director's recommendations.  
47 Upon completion of the background investigation, the Director may in his discretion issue  
48 a temporary license pending approval of the application by the Board at the next regularly  
49 scheduled meeting. The Board shall determine whether to approve or deny the application for a  
50 license. Upon approval by the Board, a license will be issued to the applicant upon payment by

1 the applicant of the initial license fee and the required contribution to the Private Protective  
2 Services ~~Recovery-Education~~ Fund, and certificate of liability insurance.

3 (1) through (5) Repealed by Session Laws 1989, c. 759, s. 6.

4 (g) Confidentiality. – Except for purposes of administering the provisions of this section  
5 and for law enforcement purposes, the home address or telephone number of an applicant,  
6 licensee, or the spouse, children, or parents of an applicant or licensee is confidential under  
7 G.S. 132-1.2, and the Board shall not disclose this information unless the applicant or licensee  
8 consents to ~~such~~ the disclosure. The provisions of this subsection shall not apply when a  
9 licensee's home address or telephone number is also ~~his or her~~ the licensee's business address  
10 and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor."

11 **SECTION 4.** Article 1 of Chapter 74C of the General Statutes is amended by  
12 adding a new statutory section to read:

13 **"§ 74C-8.1. Criminal background checks.**

14 (a) Authorization. – Upon receipt of an application for a license, registration,  
15 certification, or permit, the Board shall conduct a background investigation to determine  
16 whether the applicant meets the requirements for a license, registration, certification, or permit  
17 set out in G.S. 74C-8(d). The Department of Justice may provide a criminal record check to the  
18 Board for a person who has applied for a new or renewal license, registration, certification, or  
19 permit through the Board. The Board shall provide to the Department of Justice, along with the  
20 request, the fingerprints of a new applicant, and the Department of Justice shall provide a  
21 criminal record check based upon the applicant's fingerprints. The Board may request a  
22 criminal record check from the Department of Justice for a renewal applicant based upon the  
23 applicant's fingerprints in accordance with policy adopted by the Board. The Board shall  
24 provide any additional information required by the Department of Justice and a form signed by  
25 the applicant consenting to the check of the criminal record and to the use of the fingerprints  
26 and other identifying information required by the State or national repositories. The applicant's  
27 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's  
28 criminal history record file, and the State Bureau of Investigation shall forward a set of the  
29 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The  
30 Department of Justice may charge each applicant a fee for conducting the checks of criminal  
31 history records authorized by this subsection.

32 The Board may require a new or renewal applicant to obtain a criminal record report from  
33 one or more reporting services designated by the Board to provide criminal record reports.  
34 Applicants are required to pay the designated reporting service for the cost of these reports.

35 (b) Confidentiality. – The Board shall keep all information obtained pursuant to this  
36 section confidential in accordance with applicable State law and federal guidelines, and the  
37 information shall not be a public record under Chapter 132 of the General Statutes."

38 **SECTION 5.** G.S. 74C-9(d) reads as rewritten:

39 "(d) The operator or manager of any branch office shall be properly licensed or  
40 registered. The license shall be posted at all times in a conspicuous place in the branch office.  
41 This license shall be issued for a term of ~~one year~~ two years. Every business covered under the  
42 provisions of this Chapter shall file in writing with the Board the addresses of each of its  
43 branch offices, if any, within 10 working days after the establishment, closing, or changing of  
44 the location of any branch office. The Director may, upon the successful completion of an  
45 investigation of the application, issue a temporary branch office license pending approval of the  
46 application by the Board."

47 **SECTION 6.** G.S. 74C-9(e) reads as rewritten:

48 "(e) The Board is authorized to charge reasonable application and license fees as  
49 follows:

50 (1) A nonrefundable initial application fee in an amount not to exceed one  
51 hundred fifty dollars (~~\$150.00~~);(\$150.00).

- 1 (2) A new or renewal license fee in an amount not to exceed two hundred fifty  
2 dollars (\$250.00) per year of the license ~~term;~~term.
- 3 (3) A new or renewal trainee permit fee in an amount not to exceed two hundred  
4 fifty dollars (\$250.00) per year of the license ~~term;~~term.
- 5 (4) A new or renewal fee for each license or duplicate license in addition to the  
6 basic license referred to in subsection (2) in an amount not to exceed fifty  
7 dollars ~~(\$50.00);~~(\$50.00) per year of the license term.
- 8 (5) A late renewal fee to be paid within 90 days from the date the license,  
9 registration, permit, or certification expires in addition to the renewal fee due  
10 in an amount not to exceed one hundred dollars (\$100.00), if the ~~license~~  
11 license, registration, permit, or certification has not been renewed on or  
12 before the expiration date of the ~~licensee;~~license, registration, permit, or  
13 certification.
- 14 (6) A new, renewal, replacement or reissuance fee for an unarmed registration  
15 identification card in an amount not to exceed thirty dollars  
16 ~~(\$30.00);~~(\$30.00).
- 17 (7) An application fee for a firearm registration permit not to exceed fifty dollars  
18 ~~(\$50.00);~~(\$50.00).
- 19 (8) A new, renewal, replacement, or reissuance fee for a firearm registration  
20 permit not to exceed thirty dollars ~~(\$30.00);~~(\$30.00).
- 21 (9) An application fee for certification as a certified trainer not to exceed fifty  
22 dollars ~~(\$50.00);~~(\$50.00).
- 23 (10) A renewal or replacement fee for certified trainer certification not to exceed  
24 twenty-five dollars ~~(\$25.00);~~(\$25.00).
- 25 (11) A new nonresident temporary permit fee not to exceed one hundred dollars  
26 ~~(\$100.00);~~(\$100.00).
- 27 (12) An unarmed registration transfer fee not to exceed fifteen dollars  
28 ~~(\$15.00);~~(\$15.00).
- 29 (13) A branch office license fee not to exceed fifty dollars ~~(\$50.00); and~~(\$50.00)  
30 per year of the license term.
- 31 (14) A special limited guard and patrol license fee not to exceed one hundred  
32 dollars ~~(\$100.00);~~(\$100.00) per year of the license term.
- 33 (15) A correctable error fee not to exceed one hundred dollars (\$100.00) for each  
34 subsequent filing of an application following review and rejection of the  
35 initial application.

36 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be  
37 expended, under the direction of the Board, for the purpose of defraying the expenses of  
38 administering this Chapter."

39 **SECTION 7.** G.S. 74C-11(a) reads as rewritten:

40 "(a) All licensees may employ unarmed security guards as probationary employees for  
41 20 consecutive calendar days. Upon completion of the probationary period and the desire of the  
42 licensee to hire an unarmed security guard as a regular employee, the licensee shall register the  
43 employee who will be engaged in providing private protective services covered by this Chapter  
44 with the Board within 30 days after the probationary employment period ends, unless the  
45 Director, in the Director's discretion, extends the time period, for good cause. Before a  
46 probationary employee engages in private protective services, the employee shall complete any  
47 training requirements, and the licensee shall conduct a criminal record check on the employee,  
48 as the Board deems appropriate. The licensee shall submit a list of the probationary employees  
49 to the Director on a monthly basis. The list shall include the name, address, social security  
50 number, and dates of employment of the employees.

1 To register an employee after the probationary period ends, a licensee must give the Board  
2 the following:

- 3 (1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent  
4 photograph(s) of acceptable quality for identification; and
- 5 (2) Statements of any criminal records obtained from the appropriate authority  
6 in each area where the employee has resided within the immediately  
7 preceding 48 months."

8 **SECTION 8.** G.S. 74C-12(a) reads as rewritten:

9 "(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny,  
10 suspend or revoke a license, registration, or permit issued under this Chapter if it is determined  
11 that the applicant, licensee, registrant, or permit holder has done any of the following acts:

- 12 (1) Made any false statement or given any false information in connection with  
13 any application for a license, registration, or permit or for the renewal or  
14 reinstatement of a license, registration, or permit.
- 15 (2) Violated any provision of this Chapter.
- 16 (3) Violated any rule adopted by the Board pursuant to the authority contained  
17 in this Chapter.
- 18 (4) Repealed by Session Laws 1989, c. 759, s. 10.
- 19 (5) Impersonated or permitted or aided and abetted any other person to  
20 impersonate a law enforcement officer of the United States, this State, any  
21 other state, or any political subdivision of a state.
- 22 (6) Engaged in or permitted any employee to engage in a private protective  
23 services profession when not lawfully in possession of a valid license issued  
24 under the provisions of this Chapter.
- 25 (7) Willfully failed or refused to render to a client service as agreed between the  
26 parties and for which compensation has been paid or tendered in accordance  
27 with the agreement of the parties.
- 28 (8) Knowingly made any false report to the employer or client for whom  
29 information is being obtained.
- 30 (9) Committed an unlawful breaking or entering, assault, battery, or kidnapping.
- 31 (10) Knowingly violated or advised, encouraged, or assisted the violation of any  
32 court order or injunction in the course of business as a licensee.
- 33 (11) Repealed by Session Laws 1989, c. 759, s. 10.
- 34 (12) Undertaken to give legal advice or counsel or to in any way falsely represent  
35 that he or she is representing any attorney or he or she is appearing or will  
36 appear as an attorney in any legal proceeding.
- 37 (13) Issued, delivered, or uttered any simulation of process of any nature which  
38 might lead a person ~~or persons~~ to believe that such simulation – written,  
39 printed, or typed – may be a summons, warrant, writ or court process, or any  
40 pleading in any court proceeding.
- 41 (14) Failed to make the required contribution to the Private Protective Services  
42 ~~Recovery-Education~~ Fund or failed to maintain the certificate of liability  
43 insurance required by this Chapter.
- 44 (15) Violated the firearm provisions set forth in this Chapter.
- 45 (16) Repealed by Session Laws 1989, c. 759, s. 10.
- 46 (17) Failed to notify the Director by a business entity other than a sole  
47 proprietorship licensed pursuant to this Chapter of the cessation of  
48 employment of the business entity's qualifying agent within the time set  
49 forth in this Chapter.

- 1 (18) Failed to obtain a substitute qualifying agent by a business entity within 30  
2 days after its qualifying agent has ceased to serve as the business entity's  
3 qualifying agent.
- 4 (19) Been judged incompetent by a court having jurisdiction under Chapter 35A  
5 or former Chapter 35 of the General Statutes or committed to a mental health  
6 facility for treatment of mental illness, as defined in G.S. 122C-3, by a court  
7 under G.S. 122C-271.
- 8 (20) Failed or refused to offer a report to a client within 30 days of the client's  
9 written request after the client has paid for services rendered.
- 10 (21) Been previously denied a license, registration, or permit under this Chapter  
11 or previously had a license, registration, or permit revoked for cause. The  
12 denial or revocation shall include a principal in the applicant's business.
- 13 (22) Engaged in a private protective services profession under a name other than  
14 the name under which the license was obtained under the provisions of this  
15 Chapter.
- 16 (23) Divulged to any person, except as required by law, any information acquired  
17 by the license holder except at the direction of the employer or client for  
18 whom the information was obtained. A licensee may divulge to any law  
19 enforcement officer or district attorney or district attorney's representative  
20 any information the law enforcement officer may require to investigate a  
21 criminal offense with the prior approval and consent of the client.
- 22 (24) Fraudulently held himself or herself out as employed by or licensed by the  
23 State Bureau of Investigation or any other governmental authority.
- 24 (25) ~~Intemperate~~ Demonstrated intemperate habits or lacks a lack of good moral  
25 character. The acts that are prima facie evidence of intemperate habits or  
26 lack of good moral character under G.S. 74C-8(d)(2) are prima facie  
27 evidence of the same under this subdivision.
- 28 (26) Advertised or solicited business using a name other than that in which the  
29 license was issued.
- 30 (27) Worn, carried, or accepted any badge or shield purporting to indicate that the  
31 person is a law enforcement officer while licensed under the provisions of  
32 this Chapter as a private investigator.
- 33 (28) Possessed or displayed a badge or shield while providing private protective  
34 services that was not designed and approved by the Board pursuant to  
35 G.S. 74C-5(12).
- 36 (29) Failed or refused to reasonably cooperate with the Board or its agents during  
37 an investigation of any complaint, allegation, suspicion of wrongdoing, or  
38 violation of this Chapter.
- 39 (30) Failed to properly make any disclosure to the Board or provide documents or  
40 information required by this Chapter or rules adopted by the Board.
- 41 (31) Engaged in conduct constituting dereliction of duty or otherwise deceived,  
42 defrauded, or harmed the public in the course of professional activities or  
43 services.
- 44 (32) Demonstrated a lack of financial responsibility."

45 **SECTION 9.** G.S. 74C-12(c) reads as rewritten:

46 "(c) The following persons may not be issued a ~~license, registration, or permit~~ license  
47 under this Chapter:

- 48 (1) A sworn court official.
- 49 (2) A holder of a company police commission under Chapter 74E of the General  
50 Statutes."

51 **SECTION 10.** G.S. 74C-13(a) reads as rewritten:





1 full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any  
2 other disciplinary proceeding brought under this Chapter.

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

5 (1) Repealed by Session Laws 2007-511, s. 10.

6 (2) The Board shall charge each new applicant for a licensee or trainee permit  
7 fifty dollars (\$50.00), provided that for purposes of this Article a new  
8 applicant is hereby defined as an applicant who did not possess a license or  
9 trainee permit on July 1, 1983; and

10 (3) The Board is authorized to charge each licensee and trainee an additional  
11 amount, not to exceed fifty dollars (\$50.00), on July 1 of any year in which  
12 the balance of the Fund is less than twenty-five thousand dollars (\$25,000),  
13 provided that any amount so assessed will be only so much as is needed to  
14 raise the level of the Fund to twenty-five thousand dollars (\$25,000).

15 (d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner  
16 provided by law, ~~provided that sufficient liquidity shall be maintained to satisfy claims~~  
17 ~~authorized by the Board. The proceeds from the investments shall be deposited to the credit of~~  
18 ~~the Fund.~~ law. The Board ~~Board~~, in its discretion, may use ~~any and all of the proceeds from the~~  
19 ~~investments or funds that exceed twenty five thousand dollars (\$25,000) the Fund~~ for any of  
20 the following purposes:

21 (1) To advance education and research in the private protective services field for  
22 the benefit of those licensed or registered under the provisions of this  
23 Chapter and for the improvement of the industry.

24 (2) To underwrite educational seminars, training centers and other educational  
25 projects for the use and benefit generally of ~~licensees~~ licensees, registrants,  
26 and trainees.

27 (3) To sponsor, contract for and to underwrite any and all additional educational  
28 training and research projects of a similar nature having to do with the  
29 advancement of the private protective services field in North Carolina. The  
30 Board shall have the authority to sponsor courses given by private  
31 individuals, associations, or corporations. However, the Board shall only  
32 grant funds as necessary to offset the actual cost of the educational course.  
33 Any individual, association, or corporation receiving grant money from the  
34 Board shall make the course available to the industry at large. Any  
35 individual, association, or corporation receiving grant money from the Board  
36 and advertising the course to the industry is required to include in its  
37 advertising the following statement: "The course is being given in whole or  
38 in part by a grant from the Private Protective Services Board."

39 (e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand  
40 dollars (\$50,000) may be converted to offset the operating expenses of the Board. However, in  
41 converting the funds, the Board shall make findings of fact by a written order or resolution  
42 supporting the need to make the conversion."

43 **SECTION 14.** G.S. 74C-31, 74C-32, and 74C-33 are repealed.

44 **SECTION 15.** G.S. 74D-2 reads as rewritten:

45 **"§ 74D-2. Licenses required. License requirements.**

46 (a) License Required. – No person, firm, association, corporation, or department or  
47 division of a firm, association or corporation, shall engage in or hold itself out as engaging in  
48 an alarm systems business without first being licensed in accordance with this Chapter. For  
49 purposes of this Chapter an "alarm systems business" is defined as any person, firm, association  
50 or corporation which sells or attempts to sell by engaging in a personal solicitation at a  
51 residence or business when combined with personal inspection of the interior of the residence

1 or business to advise on specific types and specific locations of alarm system devices, installs,  
2 services, monitors or responds to electrical, electronic or mechanical alarm signal devices,  
3 burglar alarms, television cameras or still cameras used to detect burglary, breaking or entering,  
4 intrusion, shoplifting, pilferage, or theft. A department or division of a firm, association or  
5 corporation may be separately licensed under this Chapter if the distinct department or division,  
6 as opposed to the firm, association or corporation as a whole, engages in an alarm systems  
7 business. Such a department or division shall ensure strict confidentiality of private security  
8 information, and the private security information of the department or division must, at a  
9 minimum, be physically separated from other premises of the firm, association or corporation.

10 (b) Repealed by Session Laws 1989, c. 730, s. 1.

11 (c) Qualifying Agent. – A business entity that engages in the alarm systems business is  
12 subject to all of the requirements listed in this subsection with respect to a qualifying agent. For  
13 purposes of this Chapter, a 'qualifying agent' is an individual in a management position who is  
14 licensed under this Chapter and whose name and address have been registered with the Board.  
15 The requirements are:

16 (1) ~~No business entity shall do business under this Chapter unless the business~~  
17 ~~entity has in its.~~ The business entity shall employ a designated resident  
18 qualifying agent who meets the requirements for a license issued under and  
19 who is, in fact, licensed under the provisions of this Chapter, unless  
20 otherwise approved by the Board. Provided, however, that this approval  
21 shall not be given unless the business entity has and continuously maintains  
22 in this State a registered agent who shall be an individual resident in this  
23 State. Service upon the registered agent appointed by the business entity of  
24 any process, notice or demand required by or permitted by law to be served  
25 upon the business entity by the Alarm Systems Licensing Board shall be  
26 binding upon the business entity and the licensee. Nothing herein contained  
27 shall limit or affect the right to serve any process, notice or demand required  
28 or permitted by law to be served upon a business entity in any other manner  
29 or hereafter permitted by law.

30 (2) ~~For the purposes of this Chapter, a "qualifying agent" means an individual in~~  
31 ~~a management position who is licensed under this Chapter and whose name~~  
32 ~~and address have been registered with the board.~~

33 (3) In the event that the qualifying agent upon whom the business entity relies in  
34 order to do business ceases to perform his duties as qualifying agent, the  
35 business entity shall notify the board in writing within 10 working days. The  
36 business entity must obtain a substitute qualifying agent within 30 days after  
37 the original qualifying agent ceases to serve as qualifying agent unless the  
38 board, in its discretion, and upon written request of the business entity,  
39 extends this period for good cause for a period of time not to exceed three  
40 months.

41 (4) The license certificate shall list the name of at least one designated  
42 qualifying agent. No licensee shall serve as the qualifying agent for more  
43 than one business entity without the prior approval of the Board.

44 (5) ~~The Department of Justice may provide a criminal record check to the Alarm~~  
45 ~~Systems Licensing Board for a person who has applied for a new or renewal~~  
46 ~~license, registration, certification, or permit through the Alarm Systems~~  
47 ~~Licensing Board. The Board shall provide to the Department of Justice,~~  
48 ~~along with the request, the fingerprints of the applicant, any additional~~  
49 ~~information required by the Department of Justice, and a form signed by the~~  
50 ~~applicant consenting to the check of the criminal record and to the use of the~~  
51 ~~fingerprints and other identifying information required by the State or~~

1 national repositories. The applicant's fingerprints shall be forwarded to the  
2 State Bureau of Investigation for a search of the State's criminal history  
3 record file, and the State Bureau of Investigation shall forward a set of the  
4 fingerprints to the Federal Bureau of Investigation for a national criminal  
5 history check. The Board shall keep all information pursuant to this  
6 subdivision privileged, in accordance with applicable State law and federal  
7 guidelines, and the information shall be confidential and shall not be a public  
8 record under Chapter 132 of the General Statutes.

9 The Department of Justice may charge each applicant a fee for  
10 conducting the checks of criminal history records authorized by this  
11 subdivision.

12 (d) Criminal Record Check. – An applicant must meet all of the following requirements  
13 and qualifications determined by a background investigation conducted by the Board in  
14 accordance with G.S. 74D-2.1 and upon receipt of an application: Upon receipt of an  
15 application, the board shall cause a background investigation to be made during which the  
16 applicant shall be required to show that he meets all the following requirements and  
17 qualifications prerequisite to obtaining a license:

18 (1) ~~That the~~ The applicant is at least 18 years of age; age.

19 (2) ~~That the~~ The applicant is of good moral character and temperate habits. The  
20 following shall be prima facie evidence that the applicant does not have  
21 good moral character or temperate habits: conviction by any local, State,  
22 federal, or military court of any crime involving the illegal use, carrying, or  
23 possession of a firearm; conviction of any crime involving the illegal use,  
24 possession, sale, manufacture, distribution or transportation of a controlled  
25 substance, drug, narcotic, or alcoholic beverages; conviction of a crime  
26 involving felonious assault or an act of violence; conviction of a crime  
27 involving unlawful breaking or entering, burglary, larceny, or of any offense  
28 involving moral turpitude; or a history of addiction to alcohol or a narcotic  
29 drug; provided that, for purposes of this subsection, "conviction" means and  
30 includes the entry of a plea of guilty, plea of no contest, or a verdict rendered  
31 in open court by a judge or ~~jury~~; jury.

32 (3) ~~That the~~ The applicant has the necessary training, qualifications and  
33 experience to be licensed.

34 (e) Examination. – The board may require the applicant to demonstrate his  
35 qualifications by oral or written examination, or both.

36 (f) Confidentiality. – Except for purposes of administering the provisions of this section  
37 and for law enforcement purposes, the home address or telephone number of an applicant,  
38 licensee, or the spouse, children, or parents of an applicant or licensee is confidential under  
39 G.S. 132-1.2, and the Board shall not disclose this information unless the applicant or licensee  
40 consents to ~~such~~ the disclosure. The provisions of this subsection shall not apply when a  
41 licensee's home address or telephone number is also ~~his or her~~ the licensee's business address  
42 and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor."

43 **SECTION 16.** Article 1 of Chapter 74D of the General Statutes is amended by  
44 adding a new statutory section to read:

45 **"§ 74D-2.1. Criminal background checks.**

46 (a) Authorization. – Upon receipt of an application for a license or registration, the  
47 Board shall conduct a background investigation to determine whether the applicant meets the  
48 requirements for a license or registration as set out in G.S. 74D-2(d). The Department of Justice  
49 may provide a criminal record check to the Board for a person who has applied for a new or  
50 renewal license or registration through the Board. The Board shall provide to the Department of  
51 Justice, along with the request, the fingerprints of a new applicant, and the Department of

1 Justice shall provide a criminal record check based upon the applicant's fingerprints. The Board  
2 may request a criminal record check from the Department of Justice for a renewal applicant  
3 based upon the applicant's fingerprints in accordance with policy adopted by the Board. The  
4 Board shall provide any additional information required by the Department of Justice and a  
5 form signed by the applicant consenting to the check of the criminal record and to the use of the  
6 fingerprints and other identifying information required by the State or national repositories. The  
7 applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of  
8 the State's criminal history record file, and the State Bureau of Investigation shall forward a set  
9 of the fingerprints to the Federal Bureau of Investigation for a national criminal history check.  
10 The Department of Justice may charge each applicant a fee for conducting the checks of  
11 criminal history records authorized by this subsection.

12 The Board may require a new or renewal applicant to obtain a criminal record report from  
13 one or more reporting services designated by the Board to provide criminal record reports.  
14 Applicants are required to pay the designated reporting service for the cost of these reports.

15 (b) Confidentiality. – The Board shall keep all information obtained pursuant to this  
16 section confidential in accordance with applicable State law and federal guidelines, and the  
17 information shall not be a public record under Chapter 132 of the General Statutes."

18 **SECTION 17.** The Joint Legislative Commission on Governmental Operations  
19 shall study the regulation and impacts of digital forensics and report to the 2009 General  
20 Assembly when it reconvenes in 2010.

21 **SECTION 18.** This act becomes effective October 1, 2009.