

## **Chapter 74F.**

### **Locksmith Licensing Act.**

#### **§ 74F-1. Short title.**

This act shall be known as the North Carolina Locksmith Licensing Act. (2001-369, s. 1.)

#### **§ 74F-2. Purpose.**

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare. (2001-369, s. 1.)

#### **§ 74F-3. Licenses required; violation.**

(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. Every person providing locksmith services as defined under G.S. 74F-4(5) to buildings containing medical records, pharmaceutical records, educational records, criminal records, voting records, tax records, legal records, or personnel records, including any person providing locksmith services who is employed by or working for a school, college, university, hospital, company, institution, or government facility shall be licensed in accordance with the provisions of this Chapter.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section is a Class 1 misdemeanor for the first offense. A second or subsequent offense is a Class I felony. (2001-369, s. 1; 2013-370, ss. 1, 2.)

#### **§ 74F-4. Definitions.**

The following definitions apply in this Chapter:

- (1) **Apprentice.** – A person who has been issued an apprenticeship designation by the Board.
- (1a) **Board.** – The North Carolina Locksmith Licensing Board.
- (2) **Code book.** – A compilation, in any form, of key codes and combinations.
- (3) **License.** – A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.
- (4) **Locksmith.** – A person who has been issued a license by the Board.
- (5) **Locksmith services.** – Services that include repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians. The definition also includes any method of bypassing a locking mechanism of any kind, whether in a commercial, residential, or automotive setting, for compensation.
- (6) **Locksmith tools.** – Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer. (2001-369, s. 1; 2003-350, ss. 1, 2; 2013-370, s. 3.)

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

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

- (1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three locksmiths, two of whom shall serve terms of four years and one of whom shall serve a term of three years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint three locksmiths, one of whom shall serve a term of four years, one of whom shall serve a term of three years, and one of whom shall serve a term of two years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.
- (3) The Governor shall appoint three public members, one of whom shall serve a term of three years and two of whom shall serve terms of two years.

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

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

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

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

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

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

(g) Meetings. – The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for issuing licenses under this Chapter. The Board shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of Board members shall constitute a quorum. (2001-369, s. 1.)

#### **§ 74F-6. Powers of the Board.**

The Board shall have the power and duty to:

- (1) Administer and enforce the provisions of this Chapter.
- (2) Adopt rules as may be necessary to carry out the provisions of this Chapter.
- (3) Examine and determine the qualifications and fitness of applicants for licensure and renewal of licensure.
- (4) Issue, renew, deny, suspend, or revoke licenses or apprenticeship designations and conduct any disciplinary actions authorized by this Chapter.
- (5) Set fees as provided in G.S. 74F-9.
- (6) Establish and approve continuing education requirements for persons licensed under this Chapter.
- (7) Receive and investigate complaints from members of the public.
- (8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining licensees exist.
- (9) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.
- (10) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.
- (11) Maintain a list of the names and addresses of all persons licensed by the Board.
- (12) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.
- (13) Adopt and publish a code of ethics.
- (14) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.
- (15) Employ an attorney to assist or represent the Board in enforcing this Chapter.
- (16) Request that the Department of Public Safety conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to G.S. 143B-946.
- (17) Authorize the chair, by majority vote, to issue subpoenas allowing the Board to obtain the records of a person or company offering locksmith services, including an employee of a company, a contractor, or a subcontractor. The records obtained shall include invoices and receipts, specifically any invoices and receipts that pertain to locksmith tools, equipment, or parts. (2001-369, s. 1; 2003-350, ss. 3, 4; 2004-177, s. 1; 2013-370, s. 4; 2014-100, s. 17.1(gg).)

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

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

- (1) Is of good moral and ethical character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.
- (2) Is at least 18 years of age.
- (3) Successfully completes an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths.
- (4) Pays the required fee under G.S. 74F-9. (2001-369, s. 1; 2003-350, s. 5.)

**§ 74F-7.1. Apprentices.**

(a) An applicant may receive an apprentice designation if the applicant meets all of the following requirements:

- (1) Is of good moral and ethical character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.
- (2) Is at least 18 years of age.
- (3) Pays the required fee under G.S. 74F-9.

(b) After an applicant has satisfied the requirements in subsection (a) of this section, the apprentice may practice as an apprentice locksmith under the supervision of a licensed locksmith. The Board shall issue each apprentice a colored badge card that identifies the individual as an apprentice and includes the apprentice designation. The Board shall establish requirements for apprentice supervision.

(c) An apprentice may have the apprentice designation for no longer than three years. On or before the three-year period expires, the apprentice shall take the locksmith licensure examination administered by the Board. If the apprentice fails to take the examination within the three-year period or fails the examination and does not retake the examination on or before the three-year period expires, the apprentice shall not receive licensure and shall not be granted another apprenticeship.

(d) If an apprentice terminates employment with a licensed locksmith under which the apprentice originally received his or her apprenticeship, the apprentice shall find employment with another licensed locksmith to maintain the apprentice designation and shall pay a transfer fee pursuant to G.S. 74F-9.

Each licensed locksmith shall have no more than two apprentices at one time. However, a licensed locksmith shall have a 90-day grace period within which to accommodate more than two apprentices if the apprentice is newly hired as a result of a previous termination of employment or the inability of a licensed locksmith to supervise the apprentice. The licensed locksmith shall contact the Board once the locksmith terminates the additional apprentice, and the licensed locksmith shall be legally responsible for the apprentice's work until the Board is notified otherwise. (2003-350, s. 6.)

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

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

(b) The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this Chapter or the person resides in a state that recognizes licenses issued by the Board. (2001-369, s. 1.)

**§ 74F-9. Fees.**

The Board shall establish fees not exceeding the following amounts:

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|-----|-----------------------|----------|
| (1) | Issuance of a license | \$300.00 |
| (2) | Renewal of a license  | \$300.00 |
| (3) | Examination           | \$200.00 |
| (4) | Reinstatement         | \$250.00 |

(5)	Late fees	\$300.00
(6)	Apprentice license fee	\$300.00
(7)	Apprentice transfer fee	\$25.00.

(2001-369, s. 1; 2003-350, s. 7; 2013-370, s. 5.)

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

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

(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9. If an applicant whose license has expired can show good cause to the Board the reason for allowing the license to expire, the Board, in its discretion, may adjust the renewal and reinstatement fees accordingly.

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

(d) A license may not be transferred or assigned. (2001-369, s. 1; 2013-370, s. 6.)

**§ 74F-11. Photo identification.**

Every person licensed under this Chapter shall be issued a photo identification card by the Board. The card shall display a current photograph of the person, the person's name, address, and telephone number. The licensee shall have the photograph identification card available for inspection while performing locksmith services. (2001-369, s. 1.)

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

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

(b) All advertisements for locksmith services shall include a valid license number issued by the Board. The license number of the owner of the locksmith company shall satisfy the requirements of this subsection. (2001-369, s. 1; 2013-370, s. 7.)

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

Every licensee under this Chapter shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section. (2001-369, s. 1.)

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

When opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property. (2001-369, s. 1.)

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

(a) The Board may deny or refuse to renew, suspend, or revoke a license or apprenticeship designation if the licensee, apprentice, or applicant:

- (1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.
- (2) Has been convicted of or pled guilty or no contest to any of the crimes listed in G.S. 74F-18(a)(2).
- (3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.
- (4) Has willfully violated any of the provisions of this Chapter.

(b) The Board may assess the costs of disciplinary action, including attorneys' fees, against an applicant or licensee found to be in violation of this Chapter or rules adopted by the Board. (2001-369, s. 1; 2003-350, s. 8; 2013-370, s. 8.)

### § 74F-16. Exemptions.

The provisions of this Chapter do not apply to:

- (1) An employee of a licensed locksmith when acting under the direct control and supervision of the licensed locksmith. For purposes of this subdivision, "direct control and supervision" means that a licensed locksmith is required to physically accompany the employee to the premises where locksmith services are to be performed.
- (1a) An employee of a locksmith company performing administrative duties only. For purposes of this section, "administrative duties" means managing the daily operations of an office in a locksmith company, including performing clerical tasks, answering telephones, and greeting customers.
- (2) A person working as an apprentice pursuant to G.S. 74F-7.1.
- (3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the General Statutes, when acting within the scope and course of the alarm systems license or registration.
- (4) A person or business providing any of the following services so long as the person or business does not represent himself, herself, or itself as a locksmith:
  - a. A towing service, or its employee, when providing services in the normal course of its business.
  - b. An automotive repair business, or its employee, when opening a vehicle to perform service on the vehicle.
  - c. A repossessing company, or its employee, while repossessing a vehicle.
  - d. A motor vehicle dealer as defined in G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when opening automotive locks in the normal course of the dealer or club's business duties.
- (5) A property owner, or the owner's employee, when providing locksmith services on the property owner's property, so long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this section, "property" means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, and residential rental property.
- (6) A merchant, or retail or hardware store, so long as all of the following apply:

- a. It is lawfully duplicating keys or installing, servicing, repairing, rebuilding, reprogramming, rekeying, or maintaining locks in the normal course of its business.
  - b. It maintains a physical location in this State.
  - c. It maintains a sales and use tax permit in accordance with G.S. 105-164.16.
  - d. It does not represent itself as a locksmith.
- (7) A member of a law enforcement agency, fire department, or other government agency who, when acting within the scope and course of the member's employment with the agency or department, opens locked doors to vehicles, homes, or businesses.
  - (8) A salesperson while demonstrating the use of locksmith tools to persons licensed under this Chapter.
  - (9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the general contractor license, or an agent or subcontractor of a licensed general contractor when acting within the ordinary course of business.
  - (10) A person or business when lawfully installing or maintaining a safety lock device on a wastewater system when the safety lock device is required by permit or requested by the owner of the wastewater system, provided the person or business does not represent itself as a locksmith. For purposes of this subdivision, "wastewater system" has the same meaning as in G.S. 130A-334.
  - (11) Any person or firm that sells gun safes or locking devices for firearms during the course of the sale of gun safes or locking devices for firearms, so long as the person or firm, or the firm's employee, does not represent himself, herself, or itself as a locksmith.
  - (12) A person while performing a locksmith service in an emergency situation without receiving any compensation for this service and who does not advertise those services. (2001-369, s. 1; 2003-350, ss. 9, 10, 10.1; 2013-370, s. 9; 2014-120, s. 9.)

**§ 74F-17. Injunctions.**

The Board may apply to the superior court for an order enjoining violations of this Chapter. Upon a showing by the Board that any person has violated this Chapter, the court may grant injunctive relief. (2001-369, s. 1.)

**§ 74F-18. Criminal history record checks of applicants for licensure or apprentice designation.**

- (a) Definitions. – The following definitions shall apply in this section:
  - (1) Applicant. – A person applying for licensure as a locksmith pursuant to G.S. 74F-7 or apprentice designation pursuant to G.S. 74F-7.1.
  - (2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice locksmithing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering

Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) All applicants for licensure or apprentice designation shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure or apprentice designation to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Public Safety and shall remit the fees to the Department of Public Safety for expenses associated with conducting the criminal history record check.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.



If, after reviewing these factors, the Board determines that the applicant's criminal history disqualifies the applicant for licensure, the Board may deny licensure or apprentice designation of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure or apprentice designation to an applicant based on information provided in the applicant's criminal history record check. (2003-350, s. 11; 2004-177, s. 2; 2012-12, s. 2(ee); 2014-100, s. 17.1(o); 2015-181, s. 47.)