

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 584
RATIFIED BILL

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.
- (2) The name under which the applicant intends to do ~~business;~~ business.
- (3) A statement as to the general nature of the business in which the applicant intends to ~~engage;~~ engage.
- (4) The full name and address of any partners in the business and the principal officers, directors and business manager, if ~~any;~~ any.
- (5) The names of not less than three unrelated and disinterested persons as references of whom inquiry can be made as to the character, standing, and reputation of the persons making the ~~application;~~ application.
- (6) Such other information, evidence, statements, or documents as may be required by the ~~Board;~~ and Board.
- (7) Accompanying trainee permit applications only, a notarized statement signed by the applicant and his employer stating that the trainee applicant



will at all times work with and under the direct supervision of a licensed private detective.

(c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages in private protective services is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For purposes of this Chapter, a 'qualifying agent' is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Director. The requirements are:

- (1) ~~A business entity other than a sole proprietorship shall not do business under this Chapter unless the business entity has in its~~ The business entity shall employ a designated resident qualifying agent who meets the requirements for a license issued under this Chapter and who is, in fact, licensed under the provisions of this Chapter, unless otherwise approved by the Board. Provided however, that this approval shall not be given unless the business entity has and continuously maintains in this State a registered agent who shall be an individual resident in this State. Service upon the registered agent appointed by the business entity of any process, notice, or demand required by or permitted to be served upon the business entity by the Private Protective Services Board shall be binding upon the business entity and the licensee. Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a business entity in any other manner now or hereafter permitted by law.
- (2) ~~For the purposes of the Chapter a qualifying agent means an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Director.~~
- (3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the Director within 10 working days. The business entity must obtain a substitute qualifying agent within 30 days after the original qualifying agent ceases to serve as qualifying agent unless the Board, in its discretion, extends this period, for good cause, for a period of time not to exceed three months.
- (4) The certificate authorizing the business entity to engage in a private protective services profession shall list the name of at least one designated qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without prior approval of the Director, subject to the approval of the Board.
- (5) ~~The Department of Justice may provide a criminal record check to the Private Protective Services Board for a person who has applied for a new or renewal license, registration, certification, or permit through the Private Protective Services Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.~~

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

(d) Criminal Record Check. – An applicant must meet all of the following requirements and qualifications determined by a background investigation conducted by the Board in accordance with G.S. 74C-8.1 and upon receipt of an application: Upon receipt of an application, the Board shall conduct a background investigation during the course of which the

~~applicant shall be required to show that he meets all the following requirements and qualifications hereby made prerequisite to obtaining a license:~~

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

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

~~(f) Issuance. – Upon a finding that the application is in proper form, the completion of the background investigation, and the completion of an examination required by the Board, the Director shall submit to the Board the application and his the Director's recommendations. Upon completion of the background investigation, the Director may in his discretion issue a temporary license pending approval of the application by the Board at the next regularly scheduled meeting. The Board shall determine whether to approve or deny the application for a license. Upon approval by the Board, a license will be issued to the applicant upon payment by the applicant of the initial license fee and the required contribution to the Private Protective Services Recovery Education Fund, and certificate of liability insurance.~~

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

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

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

"§ 74C-8.1. Criminal background checks.

~~(a) Authorization. – Upon receipt of an application for a license, registration, certification, or permit, the Board shall conduct a background investigation to determine whether the applicant meets the requirements for a license, registration, certification, or permit set out in G.S. 74C-8(d). The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license, registration, certification, or permit through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of a new applicant, and the Department of Justice shall provide a criminal record check based upon the applicant's fingerprints. The Board may request a criminal record check from the Department of Justice for a renewal applicant based upon the applicant's fingerprints in accordance with policy adopted by the Board. The Board shall provide any additional information required by the Department of Justice and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The~~

Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

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

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

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

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

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

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

- (1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ~~(\$150.00);~~ (\$150.00).
- (2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars (\$250.00) per year of the license ~~term;~~ term.
- (3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars (\$250.00) per year of the license ~~term;~~ term.
- (4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ~~(\$50.00);~~ (\$50.00) per year of the license term.
- (5) A late renewal fee to be paid within 90 days from the date the license, registration, permit, or certification expires in addition to the renewal fee due in an amount not to exceed one hundred dollars (\$100.00), if the ~~license~~ license, registration, permit, or certification has not been renewed on or before the expiration date of the ~~license;~~ license, registration, permit, or certification.
- (6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ~~(\$30.00);~~ (\$30.00).
- (7) An application fee for a firearm registration permit not to exceed fifty dollars ~~(\$50.00);~~ (\$50.00).
- (8) A new, renewal, replacement, or reissuance fee for a firearm registration permit not to exceed thirty dollars ~~(\$30.00);~~ (\$30.00).
- (9) An application fee for certification as a certified trainer not to exceed fifty dollars ~~(\$50.00);~~ (\$50.00).
- (10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ~~(\$25.00);~~ (\$25.00).
- (11) A new nonresident temporary permit fee not to exceed one hundred dollars ~~(\$100.00);~~ (\$100.00).
- (12) An unarmed registration transfer fee not to exceed fifteen dollars ~~(\$15.00);~~ (\$15.00).
- (13) A branch office license fee not to exceed fifty dollars ~~(\$50.00); and~~ (\$50.00) per year of the license term.
- (14) A special limited guard and patrol license fee not to exceed one hundred dollars ~~(\$100.00);~~ (\$100.00) per year of the license term.
- (15) A correctable error fee not to exceed one hundred dollars (\$100.00) for each subsequent filing of an application following review and rejection of the initial application.

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

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

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

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

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

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

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

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

- (16) Repealed by Session Laws 1989, c. 759, s. 10.
- (17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter.
- (18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent.
- (19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271.
- (20) Failed or refused to offer a report to a client within 30 days of the client's written request after the client has paid for services rendered.
- (21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause. The denial or revocation shall include a principal in the applicant's business.
- (22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter.
- (23) Divulged to any person, except as required by law, any information acquired by the license holder except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or district attorney's representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client.
- (24) Fraudulently held himself or herself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority.
- (25) ~~Intemperate~~ Demonstrated intemperate habits or lacks a lack of good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision.
- (26) Advertised or solicited business using a name other than that in which the license was issued.
- (27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a law enforcement officer while licensed under the provisions of this Chapter as a private investigator.
- (28) Possessed or displayed a badge or shield while providing private protective services that was not designed and approved by the Board pursuant to G.S. 74C-5(12).
- (29) Failed or refused to reasonably cooperate with the Board or its agents during an investigation of any complaint, allegation, suspicion of wrongdoing, or violation of this Chapter.
- (30) Failed to properly make any disclosure to the Board or provide documents or information required by this Chapter or rules adopted by the Board.
- (31) Engaged in conduct constituting dereliction of duty or otherwise deceived, defrauded, or harmed the public in the course of professional activities or services.
- (32) Demonstrated a lack of financial responsibility."

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

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

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

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

"(a) It shall be unlawful for any person performing private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications of this section and having been issued a firearm registration permit by the Board. A licensee shall

register any individual carrying a firearm within 30 days of employment. Before engaging in any private protective services activity, the individual shall receive any required training prescribed by the Board."

SECTION 11. G.S. 74C-14 is repealed.

SECTION 12. Chapter 74C of the General Statutes is amended by adding a new section to read:

"§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or corporation.

In the event a company, firm, or corporation licensed under this Chapter transfers ownership, control, or a majority of assets to another person, firm, association, or corporation, the person, firm, association, or corporation acquiring control or ownership shall have the following responsibilities:

- (1) Notify the Director of the acquisition or change of ownership or control by registered mail within five business days from the date of the transaction.
- (2) Describe the transaction that has occurred by providing the following information:
 - a. The name and address of the registered agent of the party acquiring control or ownership or otherwise succeeding the licensee.
 - b. The name and address of the acquiring party, including each individual owner of any interest in the party or, if the party is a corporation, the name and address of each officer of the corporation and member of the board of directors.
 - c. Any change in location of any branch office.
 - d. Any change in insurance or bonding limits.
- (3) Return to the Director all licenses held by the licensee within five business days from the date of the transaction if the acquiring party does not continue to operate the business under its previous name and license.
- (4) Provide to the Director within 60 calendar days from the date of the transaction the following:
 - a. A list of all registrants or licensees affected by the transaction.
 - b. Written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board on a form approved by the Director."

SECTION 13. The title of Article 2 of Chapter 74C of the General Statutes and G.S. 74C-30 read as rewritten:

"Article 2.

"Private Protective Services ~~Recovery~~ Education Fund.

"§ 74C-30. Private Protective Services ~~Recovery~~ Education Fund created; payments to Fund; management; use of funds.

(a) There is hereby created and established a special fund to be known as the "Private Protective Services ~~Recovery~~ Education Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. ~~Said~~ The Fund shall be used in the manner provided in this Article for the ~~payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.~~ education of licensees and registrants as deemed appropriate by the Board.

~~(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.~~

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

- (1) Repealed by Session Laws 2007-511, s. 10.
- (2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars (\$50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and
- (3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars (\$50.00), on July 1 of any year in which

the balance of the Fund is less than twenty-five thousand dollars (\$25,000), provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to twenty-five thousand dollars (\$25,000).

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

- (1) To advance education and research in the private protective services field for the benefit of those licensed or registered under the provisions of this Chapter and for the improvement of the industry.
- (2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of ~~licensees~~ licensees, registrants, and trainees.
- (3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: "The course is being given in whole or in part by a grant from the Private Protective Services Board."

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

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

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

"§ 74D-2. ~~Licenses required.~~ License requirements.

(a) License Required. – No person, firm, association, corporation, or department or division of a firm, association or corporation, shall engage in or hold itself out as engaging in an alarm systems business without first being licensed in accordance with this Chapter. For purposes of this Chapter an "alarm systems business" is defined as any person, firm, association or corporation which sells or attempts to sell by engaging in a personal solicitation at a residence or business when combined with personal inspection of the interior of the residence or business to advise on specific types and specific locations of alarm system devices, installs, services, monitors or responds to electrical, electronic or mechanical alarm signal devices, burglar alarms, television cameras or still cameras used to detect burglary, breaking or entering, intrusion, shoplifting, pilferage, or theft. A department or division of a firm, association or corporation may be separately licensed under this Chapter if the distinct department or division, as opposed to the firm, association or corporation as a whole, engages in an alarm systems business. Such a department or division shall ensure strict confidentiality of private security information, and the private security information of the department or division must, at a minimum, be physically separated from other premises of the firm, association or corporation.

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

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

- (1) ~~No business entity shall do business under this Chapter unless the business entity has in its~~ The business entity shall employ a designated resident qualifying agent who meets the requirements for a license issued under and who is, in fact, licensed under the provisions of this Chapter, unless

otherwise approved by the Board. Provided, however, that this approval shall not be given unless the business entity has and continuously maintains in this State a registered agent who shall be an individual resident in this State. Service upon the registered agent appointed by the business entity of any process, notice or demand required by or permitted by law to be served upon the business entity by the Alarm Systems Licensing Board shall be binding upon the business entity and the licensee. Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a business entity in any other manner or hereafter permitted by law.

- (2) ~~For the purposes of this Chapter, a "qualifying agent" means an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the board.~~
- (3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the board in writing within 10 working days. The business entity must obtain a substitute qualifying agent within 30 days after the original qualifying agent ceases to serve as qualifying agent unless the board, in its discretion, and upon written request of the business entity, extends this period for good cause for a period of time not to exceed three months.
- (4) The license certificate shall list the name of at least one designated qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without the prior approval of the Board.
- (5) ~~The Department of Justice may provide a criminal record check to the Alarm Systems Licensing Board for a person who has applied for a new or renewal license, registration, certification, or permit through the Alarm Systems Licensing Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.~~

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

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

- (1) ~~That the~~The applicant is at least 18 years of ~~age;~~age.
- (2) ~~That the~~The applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary, larceny, or of any offense

involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, "conviction" means and includes the entry of a plea of guilty, plea of no contest, or a verdict rendered in open court by a judge or jury.

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

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

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

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

"§ 74D-2.1. Criminal background checks.

(a) Authorization. – Upon receipt of an application for a license or registration, the Board shall conduct a background investigation to determine whether the applicant meets the requirements for a license or registration as set out in G.S. 74D-2(d). The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license or registration through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of a new applicant, and the Department of Justice shall provide a criminal record check based upon the applicant's fingerprints. The Board may request a criminal record check from the Department of Justice for a renewal applicant based upon the applicant's fingerprints in accordance with policy adopted by the Board. The Board shall provide any additional information required by the Department of Justice and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

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

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

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

SECTION 18. This act becomes effective October 1, 2009.
In the General Assembly read three times and ratified this the 13th day of July, 2009.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2009