

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 759
SENATE BILL 605

AN ACT TO AMEND THE LAWS CONCERNING THE PRIVATE PROTECTIVE SERVICES BOARD AND THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-1 reads as rewritten:

"§ 74C-1. Title.

This Chapter may be cited as the Private Protective Services Act. The purpose of this act is to increase the level of integrity, competency, and performance of Private Protective Service Professions in order to safeguard the public health, safety, and welfare."

Sec. 2. G.S. 74C-2 reads as rewritten:

"§ 74C-2. Licenses required.

(a) No private person, firm, association, or corporation shall engage in, perform any services as, or in any way represent or hold itself out as engaging in a private protective ~~service~~ services business-profession or activity in this State without having first complied with the provisions of this Chapter. Compliance with the licensing requirements of this Chapter shall not relieve any person, firm, association or corporation from compliance with any other licensing law.

(b) An individual in possession of a valid private protective services license or private detective trainee permit issued prior to ~~July 1, 1973~~ October 1, 1989, shall not be subject to forfeiture of such license by virtue of this Chapter. Such license shall, however, remain subject to suspension, denial, or revocation in the same manner in which all other licenses issued pursuant to this Chapter are subject to suspension, denial, or revocation.

(c) In its discretion, the Private Protective Services Board may issue a trainee permit in lieu of a private investigator license provided that the applicant works under the direct supervision of a licensee."

Sec. 3. G.S. 74C-3 reads as rewritten:

"§ 74C-3. Private protective services ~~business~~ profession defined.

(a) As used in this Chapter, the term 'private protective services ~~business~~ profession' means and includes the following:

- (1) 'Armored car ~~business~~ profession' means any person, firm, association, or corporation which provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, checks, documents, stocks, bonds, jewelry,

paintings, and other valuables for a fee or other valuable consideration. ~~This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.~~ This definition does not include a person operating an armored car business pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such business; however, armed armored car service guards shall be subject to the provisions of G.S. 74C-13.

- (2) Repealed by Session Laws 1983, c. 786, s. 2, effective January 1, 1984.
- (3) 'Counterintelligence service business-profession' means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration. ~~This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.~~
- (4) 'Courier service business-profession' means any person, firm, association, or corporation which transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value which require expeditious service for a fee or other valuable consideration. ~~This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.~~ This definition does not include a person operating a courier service ~~business~~-pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such ~~business~~-service; however, armed courier service guards shall be subject to the provisions of G.S. 74C-13.
- (5) 'Detection of deception examiner' means any person, firm, association, or corporation which uses any device or instrument, regardless of its name or design, for the purpose of the detection of deception or any person who reviews the work product of an examiner including charts, tapes or other methods of record keeping for the purpose of detecting deception or determining accuracy.
- (6) 'Security guard and patrol business-profession' means any person, firm, association, or corporation ~~engaging in the business of providing a private watchman, guard, or street patrol service that provides a~~ security guard on a contractual basis for another person, firm,

association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

- a. Prevention ~~and/or~~ or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;
- b. Prevention, observation, or detection of any unauthorized activity on private property; ~~and~~
- c. Protection of patrons and persons lawfully authorized to be on the premises of the person, firm, association, or corporation ~~for whom he contractually obligated to provide~~ that entered into the contract for security services; and or
- d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

~~This definition does not include a person employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer, except that if the employee is an armed private security officer and wears, carries, or possesses a firearm in the performance of his duties, the provisions of G.S. 74C-13 shall apply; provided, however, that nothing in this Chapter shall be construed to prohibit a law enforcement officer from being employed during his off duty hours by a licensed security guard and patrol company on an employer-employee basis; provided further, that the police officer shall not wear his police officer's uniform or use police equipment while working for a security guard and patrol company. This definition does not include a law enforcement officer who provides security guard and patrol services on an individual employer-employee basis to a person, firm, association, or corporation which is not engaged in a security guard and patrol business.~~

- (7) 'Guard-dog service ~~business~~ profession' means any person, firm, association, or corporation which contracts with another person, firm, association, or corporation to place, lease, rent, or sell a trained dog for the purpose of protecting lives or property for a fee or other valuable consideration. ~~This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.~~
- (8) 'Private detective' or 'private investigator' are synonymous and means mean any person who engages in the business-profession of or accepts employment to furnish, agrees to make, or makes ~~an~~ inquiries or investigations concerning the below-listed topics on a contractual basis investigation for the purpose of obtaining information with reference to:
 - a. ~~Crime~~ Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

- b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;
- c. The location, disposition, or recovery of lost or stolen property;
- d. The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to ~~properties, properties;~~ provided that scientific research laboratories and consultants shall not be included in this definition;
- e. Securing evidence to be used before any court, board, officer, or ~~investigation~~ investigative committee; or
- f. Protection of individuals from serious bodily harm or death.

~~However, the employee of a security department of a private business which conducts investigations exclusively on matters internal to the business affairs of the business shall not be required to be licensed as a private detective or investigator under this Chapter.~~

(9) 'Special limited guard and patrol profession' means any person who is licensed under Chapter 74D of the General Statutes of North Carolina and provides armed alarm responders pursuant to G.S. 74C-13. Applicants for this limited license shall not be required to meet the experience requirements for a security guard and patrol license. Any experience gained under this limited license shall not be counted as experience for a security guard and patrol license.

- (b) 'Private protective services' shall not mean:
 - (1) ~~Insurance-Licensed insurance~~ adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance company;
 - (2) An officer or employee of the United States, this State, or any political subdivision of either while such officer or employee is engaged in the performance of his official duties within the course and scope of his employment with the United States, this State, or any political subdivision of either;
 - (3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating or credit worthiness of persons; and a person who provides consumer reports in connection with:
 - a. Credit transactions involving the consumer on whom the information is to be furnished and involving the extensions of credit to the consumer,
 - b. Information for employment purposes,
 - c. Information for the underwriting of insurance involving the consumer,

- d. Information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility, or
 - e. A legitimate business need for the information in connection with a business transaction involving the consumer;
- (4) An attorney at law licensed to practice in North Carolina while engaged in such practice and his agent, provided said agent is performing duties only in connection with his ~~master's~~ principal's practice of law;
 - (5) The legal owner or lien holder, and his agents and employees, of personal property which has been sold in a transaction wherein a security interest in personal property has been created to secure the sales transaction, who engage in repossession of said personal property;
 - (6) ~~Company police or railroad police as defined in Chapter 74A of the General Statutes of North Carolina;~~
 - (7) Repealed by Session Laws 1981, c. 807, s. 1;
 - (8) Employees of a licensee who are employed exclusively as undercover agents; provided that for purposes of this section, undercover agent means an individual hired by another person, firm, association, or corporation to perform a job ~~in and/or~~ for that person, firm, association, or corporation and, while performing such job, to act as an undercover operative, employee, or independent contractor of a licensee, but under the supervision of a licensee;
 - (9) A person who is engaged in an alarm systems business subject to the provisions of Chapter 74D of the ~~General Statutes of North Carolina;~~ Statutes;
 - (10) A person who obtains or verifies information regarding applicants for employment, with the knowledge and consent of the applicant, and is (i) engaged in business as a private personnel service as defined in G.S. 95-47.1 or engaged in business as a private employer fee pay personnel service, (ii) engaged in the business of obtaining or verifying information regarding applicants for employment, or (iii) an employer with whom the applicant has applied for employment;
 - (11) A person who ~~is engaged in the business of providing efficiency studies to employers regarding services to consumers.~~ conducts efficiency studies. An efficiency study is an analysis of an employer's business, made at the request of the employer, to determine one or more of the following:
 - a. The most efficient procedures by which an employee of the business can perform the employee's assigned duties.

- b. The adequacy of an employee's performance of the employee's assigned duties that require interaction with a client or customer of the business.

If a person making an efficiency study observes an instance of theft or another illegal act committed by an employee of the business, the person may report the instance to the employer without violating G.S. 74C-3(a)(8).

- (12) ~~A consultant~~ Research laboratories and consultants who analyzes, tests, analyze, test, or in any way applies apply his their expertise to interpreting, evaluating, or analyzing facts or evidence submitted by another in order to determine the cause or effect of physical or psychological occurrences, and furnishes his opinion give their opinions and findings to the requesting source or to a designee of the requestor.
- (13) A person who works regularly and exclusively as an employee of an employer in connection with the business affairs of that employer. If the employee is an armed security guard and wears, carries, or possesses a firearm in the performance of his duties, the provisions of G.S. 74C-13 apply.
- (14) An employee of a security department of a private business that conducts investigations exclusively on matters internal to the business affairs of the business."

Sec. 4. G.S. 74C-4(a) and (g) read as rewritten:

"(a) The Private Protective Services Board is hereby established in the Department of Justice to administer the licensing and set educational and training requirements for persons, firms, associations, and corporations engaged in ~~the a~~ private protective services ~~businesses~~ profession within this State.

(g) All decisions heretofore made by the Private Protective Services Board, established pursuant to Chapter 74B, shall remain in full force and effect unless and until repealed or suspended by action of the Private Protective Services Board established herein. ~~All rules and regulations heretofore adopted pursuant to the provisions of Chapter 150A of the General Statutes by the Private Protective Services Board, established pursuant to Chapter 74B, shall remain in full force and effect until, but not later than January 1, 1980, or until repealed or suspended by action of the Private Protective Services Board established herein."~~

Sec. 5. G.S. 74C-5 reads as rewritten:

"§ 74C-5. Powers of the Board.

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to:

- (1) Promulgate rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter;

- (2) Determine minimum qualifications, establish and require written or oral examinations, and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;
- (3) Conduct investigations regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under this Chapter are complying with the provisions of this Chapter;
- (4) Adopt and amend bylaws, consistent with law, for its internal management and control;
- (5) Approve individual applicants to be licensed or registered according to this Chapter;
- (6) Deny, suspend, or revoke any license or trainee permit issued or to be issued under this Chapter to any ~~applicant or licensee~~ applicant, licensee, or permit holder who fails to satisfy the requirements of this Chapter ~~and/or~~ or the rules established by the Board. The denial, suspension, or revocation ~~of such license~~ shall be in accordance with Chapter ~~150A-150B~~ of the General Statutes of North Carolina;
- (7) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. ~~5A-21 et seq.~~ 5A, Article 2, for acts occurring in matters pending before the Private Protective Services Board which would constitute civil contempt if the acts occurred in an action pending in court; and
- (8) ~~The chairman of the Board or his representative designated to be a hearing officer may conduct any hearing called by the Board for the purpose of denial, suspension, or revocation of a license or trainee permit under this Chapter; and~~
- (9) Establish rules governing detection of deception schools, and charge fees for reimbursement of costs incurred pursuant to approval of such schools."

Sec. 6. G.S. 74C-8 reads as rewritten:

"§ 74C-8. Applications for an issuance of license.

(a) Any person, firm, association, or corporation desiring to carry on or engage in ~~a the private protective services business profession~~ in this State ~~of a kind defined in G.S. 74C-3~~ shall make a verified application in writing to the Board.

(b) The application shall include:

- (1) Full ~~name~~ name, home address, post office box, and the actual street address of the business ~~address~~ of the applicant;
- (2) The name under which the applicant intends to do business;
- (3) A statement as to the general nature of the business in which the applicant intends to engage;
- (4) The full name and address of any partners in the business and the principal officers, directors and business manager, if 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;
 - (6) Such other information, evidence, statements, or documents as may be required by the Board; and
 - (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) (1) A business entity other than a sole proprietorship shall not do business under this Chapter unless the business entity has in its 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 licensee signs a statement agreeing to waive jurisdiction or unless the licensee agrees to appoint a resident agent for service of process by the Board.~~ 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 Administrator.
- (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 Administrator 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 ~~service business 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 Administrator, subject to the approval of the Board.
- (d) Upon receipt of an application, the Board shall ~~cause~~ conduct a background investigation ~~to be made~~ 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 is at least 18 years of age;
- (2) That he 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; beverage;~~ conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking ~~and/or~~ 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 and/or or jury;
- ~~(3) For a private detective license, that he has had at least three years experience within the past five years in private investigative work, or in an investigative capacity as a member of any federal law enforcement agency, any State law enforcement agency, any municipal law enforcement department, or any county law enforcement or sheriff's department. The Board may provide by rule that post-secondary education is experience under the preceding sentence. Time spent teaching police science subjects at a post-secondary educational institution (such as a community college, college or university) shall toll the time for the minimum year requirements in the preceding two sentences. After administrative remedies have been exhausted, disputes with the Board arising under G.S. 74C-8(d)(3) may be carried directly to the General Court of Justice in the county where the complainant resides.~~
- (4) That he has the necessary training, qualifications, ~~and/or~~ 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) The Board may require the applicant to demonstrate his qualifications by oral or written examination or by successful completion of a Board-approved training program, or ~~both~~ all three.

(f) 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 Administrator shall submit to the Board the application and his recommendations. 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 Fund, and certificate of liability insurance. ~~The grounds for the denial of a license include:~~

- ~~(1) Commission of some act which if committed by a licensee, would be grounds for the suspension or revocation of a license under this Chapter;~~
- ~~(2) Conviction of a crime involving fraud;~~
- ~~(3) Lack of good moral character or 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 and/or entering, burglary, larceny; 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 a verdict rendered in open court by a judge and/or jury;~~
- ~~(4) Previous denial of a license under this Chapter or previous revocation of a license for cause;~~
- ~~(5) Knowingly making any false statement or misrepresentation in his application."~~

Sec. 7. G.S. 74C-9 reads as rewritten:

"§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.

(a) The license when issued shall be in such form as may be determined by the Board and shall state:

- (1) The name of the licensee,
- (2) The name under which the licensee is to operate, and
- (3) The number and expiration date of the license.

(b) The license shall be issued for a term of one year. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business-business, in North Carolina, unless for good cause exempted by the Administrator of the licensee. A license issued under this Chapter is not assignable.

~~(c) No licensee shall conduct a private protective services business under a name other than the name under which his license was obtained under the provisions of this Chapter or the name of the business entity under which the licensee is doing business and which name and address of such business entity has been registered with the Administrator.~~

(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. 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 Administrator 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.

(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);
- (2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars (\$250.00);
- (3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars (\$250.00);
- (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);
- (5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars (\$100.00), if the license has not been renewed on or before the expiration date of the licensee;
- (6) A new, renewal, replacement or reissuance fee for ~~a~~an unarmed registration identification card in an amount not to exceed thirty dollars (\$30.00);
- (7) An application fee for an armed ~~private security officer~~security guard firearm registration permit not to exceed fifty dollars (\$50.00);
- (8) A new, renewal, replacement, or reissuance fee for an armed ~~private security officer~~security guard firearm registration permit not to exceed thirty dollars (\$30.00);
- (9) An application fee for certification as a ~~firearms~~certified trainer not to exceed fifty dollars (\$50.00);
- (10) A renewal or replacement fee for ~~firearms~~certified trainer certification not to exceed twenty-five dollars (\$25.00);
- (11) A new nonresident temporary permit fee not to exceed one hundred dollars (\$100.00);
- (12) An unarmed ~~guard~~ registration transfer fee ~~is~~ not to exceed fifteen dollars (\$15.00);
- (13) A branch office license fee not to exceed fifty dollars (\$50.00); and
- (14) A special limited guard and patrol license fee not to exceed one hundred dollars (\$100.00).

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. ~~All fees collected pursuant to G.S. 74B-11 which have not been expended upon the effective date of this Chapter shall be transferred to~~

~~the Board established by this Chapter to be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.~~

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the Administrator of intended ~~renewal and renewal~~, the payment of the proper ~~fee.~~ fee, and evidence of a policy of liability insurance as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

(g) Upon notification of approval of his application by the Board, an applicant must furnish evidence that he has obtained the necessary ~~bond and~~ liability insurance required by G.S. 74C-10 and obtain the license applied for or his application shall lapse.

(h) Trainee permits shall not be issued to applicants ~~that satisfy the experience requirement in G.S. 74C-8(d)(3)~~ that qualify for a private detective license. A licensed private detective may supervise no more than five trainees at any given time."

Sec. 8. G.S. 74C-10 reads as rewritten:

"§ 74C-10. Certificate of liability insurance required; form and approval; suspension for noncompliance.

(a) to (d) Repealed by Session Laws 1983, c. 673, s. 4, effective July 1, 1983.

(e) No license shall be issued under this Chapter unless the applicant files with the Board evidence of a policy of liability ~~insurance which~~ insurance. The policy must provide for the following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily ~~injury~~ injury or death of two or more persons as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or destruction of property of others as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency.

(f) An insurance carrier shall have the right to cancel such policy of liability insurance upon giving a 30-day notice to the Board. Provided, however, that such cancellation shall not affect any liability on the policy which accrued prior thereto. The policy of liability shall be approved by the Board as to form, execution, and terms thereon.

(g) The holder of a ~~private detective~~ any trainee permit and persons registered pursuant to G.S. 74C-11 shall not be required to obtain a certificate of liability insurance.

(h) Every licensee shall at all times maintain on file with the Board the certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be reinstated

until an application therefor, in the form prescribed by the Board, is filed together with a proper insurance certificate.

No cancellation or refusal to renew by an insurer of a licensee under this Chapter shall be effective unless the insurer has given the insured licensee notice of the cancellation or refusal to renew. Upon termination of insurance coverage for said licensee, the insurer shall give notice to the Administrator of the Board.

(i) The Board may deny the application notwithstanding the applicant's compliance with this section:

- (1) For any reason which would justify refusal to issue or a suspension or revocation of a license; or
- (2) ~~For the performance by applicant of any practice while under suspension for failure to keep this insurance certificate in force, for which a license under this Chapter is required. Because the applicant engaged in a private protective services profession while the applicant's license was suspended for failure to keep the required liability insurance policy in force.~~

Sec. 9. G.S. 74C-11 reads as rewritten:

"§ 74C-11. Registration of persons employed; temporary employment. Registration of permanent and temporary employees; unarmed security guard required to have registration card.

(a) ~~All licensees, licensees shall register their employees within 20 days of the beginning of employment of an employee who will be engaged in the providing of private protective services with the Board within 20 days after the employment begins, unless the Administrator, in his discretion, extends the time period, for good cause, shall furnish the Board with the following:~~ cause. To register an employee, 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.

(b) ~~A security guard and patrol company may not employ a guard, watchman, or other patrol personnel an unarmed security guard unless the guard, watchman, or patrol personnel guard has a registration card issued under subsection (d) of this section. is properly registered in compliance with this section, unless otherwise exempted by another provision of this Chapter. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.~~

(c) The Administrator shall be notified in writing of the termination of any employee registered under ~~this Chapter subsection (a)~~ within 10 days after said termination.

(d) ~~A security guard, watchman, or patrol personnel~~ An unarmed security guard shall make application to the Administrator for a an unarmed registration card which the Administrator shall issue to said applicant after receipt of the information required to be

submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. If ~~a~~ an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the registration transfer fee is paid to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided ~~that such the~~ licensee, prior to employing ~~such the~~ unarmed security guard, submits to the Administrator the name, address, and social security number of ~~such the unarmed guard, guard and~~ the name of the state of current registration or licensing, and the Administrator approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Administrator a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Administrator with the name, address, social security number, and dates of employment of such employee."

Sec. 10. G.S. 74C-12 reads as rewritten:

"§ 74C-12. Denial, suspension, ~~Suspension or revocation of licenses; appeal.~~ license, registration, or permit.

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

- (1) Made any false statement or given any false information in connection with any application for a ~~license or trainee permit or registration license, registration, or permit~~ or for the renewal or reinstatement of a ~~license or trainee permit or registration license, registration, or permit~~;
- (2) Violated any provision of this Chapter;
- (3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;
- (4) ~~Been convicted of any crime involving moral turpitude or any other crime involving violence or the illegal use, carrying, or possession of a dangerous weapon;~~

- (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 ~~business~~ 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 ~~or a report~~ 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) Committed any other act which is a ground for the denial of an application for a license under this Chapter;~~
- (12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he 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 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) Committed any act prohibited under G.S. 74C-16;~~
- (17) Failed to notify the Administrator 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. ~~122-36(d)~~ 122C-3, by a court ~~having jurisdiction under Article 5A of Chapter 122 of the General Statutes.~~ 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;

- (21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;
- (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 him 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 his 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 out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;
- (25) Intemperate habits or lacks 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 private detective or private investigator while licensed under the provisions of this Chapter as a private investigator.

(b) ~~The revocation or suspension denial, revocation, or suspension of a license or registration license, registration, or permit by the Board as provided in subsection (a)~~ shall be in writing, be signed by the Administrator of the Board stating Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes.

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

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

Sec. 11. G.S. 74C-13 reads as rewritten:

"§ 74C-13. Firearms. Armed security guard required to have firearm registration permit; security guard training.

(a) It shall be unlawful for any person performing the duties of an armed ~~private security officer~~ security guard to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

- (1) '~~Armed private security officer~~ security guard' means an individual employed by a contract security company or a proprietary security

organization whose principal duty is that of an armed security ~~guard, patrol, or watchman~~ watchman; armed armored car service guard; armed alarm system company responder; private detective; or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of ~~his or her duties~~ duty.

- (2) 'Contract security company' means any person, firm, association, or corporation engaging in a private protective services ~~business profession as defined in this Chapter which provides said that provides~~ services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- (3) 'Proprietary security organization' means any person, firm, association, or corporation or department thereof which employs ~~watchmen, security guards or patrol personnel,~~ security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed ~~private security officer~~ security guard and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed ~~private security officer~~ security guard if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed ~~private security officer~~ security guard to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

- (1) ~~A firearms~~ An armed security guard firearm registration permit ~~will grant~~ grants authority to the armed security ~~officer,~~ guard, while in the performance of his duties or travelling directly to and from work, to carry a standard .38 caliber or .32 caliber revolver or any other firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.
- (2) All firearms carried by authorized armed security ~~officers~~ guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security ~~officer~~ guard in the performance of his duties.

(c) The applicant for an armed ~~private security officer~~ guard firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each armed ~~private security officer~~ guard firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. An armed ~~private security officer~~ guard firearm registration permit expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit.

(e) If the holder of an armed ~~private security officer-guard~~ firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed ~~private security officer-guard~~ pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Administrator. The Board and the Attorney General shall provide by rule the procedure by which a contract security company or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Administrator of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~a-an~~ armed security guard firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section ~~and/or-or~~ rules promulgated by the Board to implement this section. The Administrator may summarily suspend ~~a-an~~ armed security guard firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against ~~an-armed private security officer-the holder of the permit~~.

(h) The Board and the Attorney General shall establish a training program for armed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security companies company and the security department of a proprietary security organization, if the contract security ~~companies~~ company or security department of a ~~propriety~~ proprietary security organization offers the courses listed in ~~subsection (1) of this paragraph (h)~~ subdivision (1) of this subsection and if the instructors of the training program are ~~qualified instructors~~ certified trainers approved by the Board and the Attorney General:

- (1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
 - a. Legal limitations on the use of hand guns and on the powers and authority of an armed ~~private security officer,~~ security guard,
 - b. Familiarity with this section,
 - c. Range firing and procedure and hand gun safety and maintenance, and
 - d. Any other topics of armed ~~private security officer~~ security guard training curriculum which the Board deems necessary.
- (2) An applicant for an armed ~~security officer-guard~~ firearm registration permit must fire a minimum qualifying score to be determined by the

Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) An armed security ~~officer~~ guard must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue an armed ~~private security officer~~ security guard firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board ~~that~~ that the applicant:

(1) ~~He has~~ Has satisfactorily completed an approved training course.

(2) ~~He meets~~ Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) ~~He is~~ Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~a firearm registration card~~ an armed security guard firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. ~~74C-13(e) and (d)~~ 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers.

(2) No certified trainer shall certify an armed security guard unless the armed security guard has successfully completed the training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection."

Sec. 12. G.S. 74C-15 reads as rewritten:

"§ 74C-15. ~~Identification cards; badges; and shields~~ Pocket identification cards issued to licensees and trainees.

(a) Upon the issuance of a license or trainee permit, a pocket identification card of design, size, and content approved by the Board shall be issued by the Board without charge to each licensee or trainee. The holder must have this card in his possession at all times when he is on duty and working within the scope of his employment. When a

licensee or trainee to whom a card has been issued terminates his position as a licensee or trainee, the card must be surrendered to the administrator of the Board within 10 working days thereafter.

~~(b) No person licensed under the provisions of this Chapter as a private detective shall wear, carry, or accept any badge or shield purporting to indicate that such person is a private detective or a private investigator."~~

Sec. 13. G.S. 74C-16 reads as rewritten:

"§ 74C-16. Prohibited acts.

~~(a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require incident to investigation of any criminal offense. However, he shall not divulge to any other person, except as he may be required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained.~~

~~(b) Every advertisement by a licensee soliciting or advertising for business shall contain his name as it appears in the records of the Board and the name in which the license was issued.~~

~~(e) It shall be unlawful for anyone not licensed ~~and/or~~ or registered as required under this Chapter to:~~

- ~~(1) Advertise or to hold himself out to be a licensee;~~
- ~~(2) Advertise or to hold himself out to perform services for which a license is required; or when, in fact, the individual is not licensed or registered in accordance with this Chapter.~~
- ~~(3) Perform or aid and abet any other individual to perform services for which a license or registration under this Chapter is required, when, in fact, the individual is not licensed and/or registered in accordance with this Chapter.~~

~~(d) No law enforcement officers of the United States, this State, any other state, or any political subdivision of a state shall be licensed as a private detective or security guard and patrol business licensee under this Chapter; provided no law enforcement officer of the United States, this State, or any of its political subdivisions may use any motor vehicle owned or leased by a law enforcement agency in the course and scope of any private employment which is subject to regulation by the provisions of this Chapter; provided that nothing in this section shall be construed to prohibit the holder of a company police commission under Chapter 74A of the General Statutes from being licensed under this Chapter or being employed by a licensee under this Chapter.~~

~~(e) No licensee shall hold himself out as employed by or licensed by the State Bureau of Investigation.~~

~~(f) No sworn court official shall be licensed or registered under this Chapter."~~

Sec. 14. G.S. 74C-17(c) and (d) read as rewritten:

"(c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person or business who violates any provision of this Chapter or any

rule of the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation.

(d) Proceedings for the assessment of civil penalties under this section shall be governed by Chapter ~~150A-150B~~ of the General Statutes. If the person assessed a civil penalty fails to pay the penalty to the Board, the Board may institute an action in the superior court of the county in which the person resides or has his principal place of business to recover the unpaid amount of the penalty. An action to recover a civil penalty under this section shall not relieve any party from any other penalty prescribed by law."

Sec. 15. G.S. 74C-18(a) reads as rewritten:

"(a) To the extent that other states which provide for licensing of any private protective services ~~business-profession~~ provide for similar action for citizens of this State, the Board, in its discretion, may grant a private protective services ~~business~~ license to a nonresident who holds a valid private protective services ~~business~~-license of the same type from another state upon satisfactory proof furnished to the Board that the standards of licensure in such other states are at least substantially equivalent to those prevailing in this State. Applicants shall make application to the Board on the form prescribed by the Board for all applicants, shall comply with the provisions of G.S. 74C-10, and shall pay the fees required of all applicants."

Sec. 16. Chapter 74C is amended by adding a new section to read:

§ 74C-21. Law enforcement officer provisions.

(a) No law enforcement officer of the United States, this State, any other state, or any political subdivision of a state shall be licensed as a private detective or security guard and patrol licensee under this Chapter.

(b) An off-duty law enforcement officer may be employed during his off-duty hours by a licensed security guard and patrol company on an employer-employee basis. An off-duty law enforcement officer shall not wear his police officer's uniform or use the police equipment while working for a security guard and patrol company.

(c) A law enforcement officer may provide security guard and patrol services on an individual employer-employee basis to a person, firm, association, or corporation that is not engaged in a security guard and patrol profession."

Sec. 17. G.S. 74C-31(a) reads as rewritten:

"(a) The Fund shall serve as a guaranty for the obligations of those licensed under this Chapter. The Fund's liability, as guaranty, is contingent upon a licensee or trainee defaulting upon an obligation owed to a person by the licensee or trainee where said obligation was entered into by the licensee or trainee within the scope of the licensee's or trainee's employment in providing private protective services. The Board shall be subrogated by the licensee or trainee in the amount paid out and the license or trainee permit shall be revoked or suspended until such time as full restitution is made to the Fund. The aggrieved party must exhaust all civil remedies against the licensee or trainee or the estate of the licensee or trainee before seeking reimbursement from the Fund. The following shall be excluded from reimbursable losses:

(1) Losses of spouses, children, parents, grandparents, siblings, partners, associates, and employees of the licensee or trainee causing the losses;

- (2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby; and
- (3) Losses that have been otherwise received from or paid by or on behalf of the licensee who defaulted on an obligation."

Sec. 18. This act shall become effective October 1, 1989.

In the General Assembly read three times and ratified this the 11th day of August, 1989.