

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1092

Short Title: Private Protective Services Changes.

(Public)

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Sponsors: Senator Ballantine.

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Referred to: Judiciary I/Constitution

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May 4, 1995

A BILL TO BE ENTITLED

AN ACT TO REORGANIZE CHAPTER 74C OF THE GENERAL STATUTES  
REGARDING PRIVATE PROTECTIVE SERVICES AND TO MAKE VARIOUS  
AMENDMENTS TO THAT CHAPTER.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 1 of Chapter 74C of the General Statutes reads  
as rewritten:

**~~"PRIVATE PROTECTIVE SERVICES BOARD. GENERAL PROVISIONS."~~**

Sec. 2. G.S. 74C-1, 74C-2, 74C-3, 74C-4, 74C-5, 74C-6, 74C-7, 74C-8, 74C-9, 74C-10, 74C-12, 74C-15, 74C-16, 74C-17, 74C-18, 74C-19, 74C-20, and 74C-21 are designated as Article 1 of Chapter 74C of the General Statutes.

Sec. 3. The Revisor of Statutes is directed to change in the General Statutes all cross-references to statutes recodified by this act to be references to the statutes as recodified.

Sec. 4. G.S. 74C-11, 74C-13, and 74C-14 are recodified as G.S. 74C-24, 74C-25, and 74C-26 respectively, and are designated as Article 1A of Chapter 74C of the General Statutes, to be entitled "Guard and Patrol".

Sec. 5. G.S. 74C-2 reads as rewritten:

**"§ 74C-2. Licenses required.**

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

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

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

16 Sec. 6. G.S. 74C-3(a)(8) reads as rewritten:

17 "(8) ~~"Private detective" or "private~~ Private investigator are ~~synonymous and~~  
18 ~~mean~~-means any person who engages in the profession of or accepts  
19 employment to furnish, agrees to make, or makes inquiries or  
20 investigations concerning the below-listed topics on a contractual basis:

- 21 a. Crimes or wrongs done or threatened against the United States or  
22 any state or territory of the United States;
- 23 b. The identity, habits, conduct, business, occupation, honesty,  
24 integrity, credibility, knowledge, trustworthiness, efficiency,  
25 loyalty, activity, movement, whereabouts, affiliations,  
26 associations, transactions, acts, reputation, civil and criminal  
27 history of a company or an individual, or character of any person;
- 28 c. The location, disposition, or recovery of lost or stolen property;
- 29 d. The cause or responsibility for fires, libels, losses, accidents,  
30 damages, or injuries to persons or to properties;
- 31 e. Securing evidence to be used before any court, board, officer, or  
32 investigative committee; or
- 33 f. Protection of individuals from serious bodily harm or death."

34 Sec. 7. G.S. 74C-3(b)(8) reads as rewritten:

35 "(8) Employees of a licensee who are employed exclusively as undercover  
36 ~~agents; provided that for~~ agents. For purposes of this section, ~~subdivision,~~  
37 ~~undercover agent means an individual hired by another person, firm,~~  
38 ~~association, or corporation to perform a job for that person, firm, association,~~  
39 ~~or corporation and, while performing such job, to act as an undercover~~  
40 ~~operative, employee, or independent contractor of a licensee, but under the~~  
41 ~~supervision of a licensee; an employee who is employed exclusively by,~~  
42 paid by, and under the supervision of a licensee as an undercover agent  
43 for the purpose of acting as an undercover operative;".

1           Sec. 8. G.S. 74C-3(a) is amended by adding a new subdivision to read:

2           "(10) 'Executive protective professional' means any person who is licensed  
3           under this Chapter who contracts to provide protection of individuals  
4           from serious bodily harm or death."

5           Sec. 9. G.S. 74C-4(b) reads as rewritten:

6           "(b) The Board shall consist of 10 members: the Attorney General or his designated  
7           representative, two persons appointed by the Attorney General, one person appointed by  
8           the Governor, two persons appointed by the General Assembly upon the recommendation  
9           of the President of the Senate, one person appointed by the General Assembly upon the  
10          recommendation of the President Pro Tempore of the Senate, and three persons appointed  
11          by the General Assembly upon the recommendation of the Speaker of the House of  
12          Representatives. All appointments by the General Assembly shall be subject to the  
13          provisions of G.S. 120-121, and vacancies in the positions filled by those appointments  
14          shall be filled pursuant to G.S. 120-122. Those persons appointed by the General  
15          Assembly upon the recommendation of the President Pro Tempore of the Senate and the  
16          Speaker of the House of Representatives shall be licensees under this Chapter; all other  
17          appointees may not be licensees of the Board nor licensed by the Board while serving as  
18          Board members. Each appointment who is a licensee under this Chapter shall derive the  
19          majority of his or her income from the licensee's work as a licensee. All persons  
20          appointed shall serve terms of three years. With the exception of the Attorney General or  
21          his designated representative, no person shall serve more than eight consecutive years on  
22          the Board, including years of service prior and subsequent to July 1, 1983. Board  
23          members may continue to serve until their successors have been appointed."

24          Sec. 10. G.S. 74C-5 reads as rewritten:

25          "**§ 74C-5. Powers of the Board.**

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

- 28           (1) Promulgate rules necessary to carry out and administer the provisions of  
29           this Chapter including the authority to require the submission of reports  
30           and information by licensees under this Chapter;
- 31           (2) Determine minimum qualifications, establish and require written or oral  
32           examinations, and establish minimum education, experience, and  
33           training standards for applicants and licensees under this Chapter;
- 34           (3) Conduct investigations regarding alleged violations and to make  
35           evaluations as may be necessary to determine if licensees and ~~trainees~~  
36           associates under this Chapter are complying with the provisions of this  
37           Chapter;
- 38           (4) Adopt and amend bylaws, consistent with law, for its internal  
39           management and control;
- 40           (5) Approve individual applicants to be licensed or registered according to  
41           this Chapter;
- 42           (6) Deny, suspend, or revoke any license or ~~trainee-associate~~ permit issued  
43           or to be issued under this Chapter to any applicant, licensee, or permit

1 holder who fails to satisfy the requirements of this Chapter or the rules  
2 established by the Board. The denial, suspension, or revocation shall be  
3 in accordance with Chapter 150B of the General Statutes of North  
4 Carolina;

5 (7) Issue subpoenas to compel the attendance of witnesses and the  
6 production of pertinent books, accounts, records, and documents. The  
7 district court shall have the power to impose punishment pursuant to  
8 ~~G.S. Chapter 5A~~, Article 2, for acts occurring in matters pending before  
9 the Private Protective Services Board which would constitute civil  
10 contempt if the acts occurred in an action pending in court; and

11 (8) Repealed by Session Laws 1989, c. 759, s. 5.

12 (9) Establish rules governing detection of deception schools, and charge  
13 fees for reimbursement of costs incurred pursuant to approval of such  
14 schools."

15 Sec. 11. G.S. 74C-6 reads as rewritten:

16 **"§ 74C-6. Position of ~~Administrator~~Director created.**

17 The position of ~~Administrator~~Director of the Private Protective Services Board is  
18 hereby created within the State Bureau of Investigation. The Attorney General shall  
19 appoint a person to fill this full-time position. The ~~Administrator's~~Director's duties shall  
20 be to administer the directives contained in this Chapter and the rules promulgated by the  
21 Board to implement this Chapter and to carry out the administrative duties incident to the  
22 functioning of the Board in order to actively police the private protective services  
23 industry to ensure compliance with the law in all ~~aspects~~aspects and to further enhance  
24 the professional nature of the industry."

25 Sec. 12. G.S. 74C-8(b) reads as rewritten:

26 "(b) The application shall include:

27 (1) Full name, home address, post office box, and the actual street address  
28 of the business of the applicant;

29 (2) The name under which the applicant intends to do business;

30 (3) A statement as to the general nature of the business in which the  
31 applicant intends to engage;

32 (4) The full name and address of any partners in the business and the  
33 principal officers, directors and business manager, if any;

34 (5) The names of not less than three unrelated and disinterested persons as  
35 references of whom inquiry can be made as to the character, standing,  
36 and reputation of the persons making the application;

37 (6) Such other information, evidence, statements, or documents as may be  
38 required by the Board; and

39 (7) Accompanying ~~trainee~~associate permit applications only, a notarized  
40 statement signed by the applicant and his employer stating that the  
41 ~~trainee~~associate applicant will at all times work with and under the  
42 direct supervision of a licensed private ~~detective~~investigator."

43 Sec. 13. G.S. 74C-9 reads as rewritten:

1 **"§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable;**  
2 **late renewal fee.**

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

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

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

14 (c) Repealed by Session Laws 1989, c. 759, s. 7.

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

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

- 25 (1) A nonrefundable initial application fee in an amount not to exceed one  
26 hundred fifty dollars (\$150.00);
- 27 (2) A new or renewal license fee in an amount not to exceed ~~two hundred~~  
28 ~~fifty dollars (\$250.00);~~ five hundred dollars (\$500.00);
- 29 (3) A new or renewal ~~trainee~~ associate permit fee in an amount not to  
30 exceed two hundred fifty dollars (\$250.00);
- 31 (4) A new or renewal fee for each license or duplicate license in addition to  
32 the basic license referred to in subsection (2) in an amount not to exceed  
33 fifty dollars (\$50.00);
- 34 (5) A late renewal fee to be paid in addition to the renewal fee due in an  
35 amount not to exceed one hundred dollars (\$100.00), if the license has  
36 not been renewed on or before the expiration date of the licensee;
- 37 (6) A new, renewal, replacement or reissuance fee for an unarmed  
38 registration identification card in an amount not to exceed thirty dollars  
39 (\$30.00);
- 40 (7) An application fee for an armed security guard firearm registration  
41 permit not to exceed fifty dollars (\$50.00);
- 42 (8) A new, renewal, replacement, or reissuance fee for an armed security  
43 guard firearm registration permit not to exceed thirty dollars (\$30.00);

- 1 (9) An application fee for certification as a certified trainer not to exceed  
2 fifty dollars (\$50.00);  
3 (10) A renewal or replacement fee for certified trainer certification not to  
4 exceed twenty-five dollars (\$25.00);  
5 (11) A new nonresident temporary permit fee not to exceed one hundred  
6 dollars (\$100.00);  
7 (12) An unarmed registration transfer fee not to exceed fifteen dollars  
8 (\$15.00);  
9 (13) A branch office license fee not to exceed fifty dollars (\$50.00); and  
10 (14) A special limited guard and patrol license fee not to exceed one hundred  
11 dollars (\$100.00).

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

15 (f) A license or ~~trainee~~-associate permit granted under the provisions of this  
16 Chapter may be renewed by the Private Protective Services Board upon notification by  
17 the licensee or permit holder to the Administrator of intended renewal, the payment of the  
18 proper fee, and evidence of a policy of liability insurance as prescribed in G.S. 74C-  
19 10(e).

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

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

26 (h) ~~Trainee-Associate~~ permits shall not be issued to applicants that qualify for a  
27 private ~~detective-investigator~~ license. A licensed private ~~detective-investigator~~ may  
28 supervise no more than five ~~trainees-associates~~ at any given time."

29 Sec. 14. G.S. 74C-10(e) reads as rewritten:

30 "(e) No license shall be issued under this Chapter unless the applicant files with the  
31 Board evidence of a policy of liability insurance. The policy must provide for the  
32 following minimum coverage: ~~fifty thousand dollars (\$50,000)~~ one million dollars  
33 (\$1,000,000) because of bodily injury or death of one person as a result of the negligent  
34 act or acts of the principal insured or his agents operating in the course and scope of his  
35 employment; subject to said limit for one person, ~~one hundred thousand dollars (\$100,000)~~  
36 one million dollars (\$1,000,000) because of bodily injury or death of two or more persons  
37 as a result of the negligent act or acts of the principal insured or his agents operating in  
38 the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of  
39 injury to or destruction of property of others as a result of the negligent act or acts of the  
40 principal insured or his agents operating in the course and scope of his or her agency."

41 Sec. 15. G.S. 74C-10(g) reads as rewritten:

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

1           Sec. 16. G.S. 74C-12(a)(27) reads as rewritten:

2           "(27) Worn, carried, or accepted any badge or shield purporting to indicate  
3           that the person is a ~~private detective or~~ private investigator while  
4           licensed under the provisions of this Chapter as a private  
5           investigator."

6           Sec. 17. G.S. 74C-13(a)(1) reads as rewritten:

7           "(1) 'Armed security guard' means an individual employed by a contract  
8           security company or a proprietary security organization whose principal  
9           duty is that of an armed security watchman; armed armored car service  
10          guard; armed alarm system company responder; ~~private detective;~~  
11          investigator; or armed courier service guard who at any time wears,  
12          carries, or possesses a firearm in the performance of duty."

13          Sec. 18. G.S. 74C-15 reads as rewritten:

14       **"§ 74C-15. Pocket identification cards issued to licensees and ~~trainees-~~associates.**

15          (a) Upon the issuance of a license or ~~trainee-associate~~ permit, a pocket  
16          identification card of design, size, and content approved by the Board shall be issued by  
17          the Board without charge to each licensee or ~~trainee-associate~~. The holder must have this  
18          card in his possession at all times when he is on duty and working within the scope of his  
19          employment. When a licensee or ~~trainee-associate~~ to whom a card has been issued  
20          terminates his position as a licensee or ~~trainee-associate~~, the card must be surrendered to  
21          the administrator of the Board within 10 working days thereafter."

22          Sec. 19. G.S. 74C-21(a) reads as rewritten:

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

26          Sec. 20. G.S. 74C-21 is amended by adding a new subsection to read:

27          "(d) A law enforcement officer shall not be employed as a private investigator or an  
28          executive protection professional during the law enforcement officer's off-duty hours."

29          Sec. 21. G.S. 74C-30 reads as rewritten:

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

32          (a) There is hereby created and established a special fund to be known as the  
33          'Private Protective Services Recovery Fund' (hereinafter Fund) which shall be set aside  
34          and maintained in the Office of the State Treasurer. Said Fund shall be used in the  
35          manner provided in this Article for the payment of claims where the aggrieved person has  
36          suffered a direct monetary loss by reason of certain acts committed by any person  
37          licensed under this Chapter.

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

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

3 (1) On July 1, 1983, the Board shall charge every licensee and ~~trainee~~  
4 associate possessing a license or ~~trainee-associate~~ permit on that date a  
5 fee of fifty dollars (\$50.00);

6 (2) The Board shall charge each new applicant for a licensee or ~~trainee~~  
7 associate permit fifty dollars (\$50.00), provided that for purposes of this  
8 Article a new applicant is hereby defined as an applicant who did not  
9 possess a license or ~~trainee-associate~~ permit on July 1, ~~1983;~~ 1995; and

10 (3) The Board is authorized to charge each licensee and ~~trainee-associate~~ an  
11 additional amount, not to exceed fifty dollars (\$50.00), on July 1 of any  
12 year in which the balance of the Fund is less than one hundred thousand  
13 dollars (\$100,000), provided that any amount so assessed will be only  
14 so much as is needed to raise the level of the Fund to one hundred  
15 thousand dollars (\$100,000).

16 (d) The State Treasurer shall invest and reinvest the moneys in the Fund in a  
17 manner provided by law, provided that sufficient liquidity shall be maintained to satisfy  
18 claims authorized by the Board. The proceeds from such investments shall be deposited  
19 to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds  
20 from such investments for any of the following purposes:

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

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

27 (3) To sponsor, contract for and to underwrite any and all additional  
28 educational training and research projects of a similar nature having to  
29 do with the advancement of the private protective services field in North  
30 Carolina."

31 Sec. 22. G.S. 74C-31(a) reads as rewritten:

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



- 1 (1) Losses of spouses, children, parents, grandparents, siblings, partners,  
2 associates, and employees of the licensee or ~~trainee~~-associate causing the  
3 losses;  
4 (2) Losses covered by any bond, surety agreement, or insurance contract to  
5 the extent covered thereby; and  
6 (3) Losses that have been otherwise received from or paid by or on behalf  
7 of the licensee who defaulted on an obligation."

8 Sec. 23. G.S. 74C-31(b) reads as rewritten:

9 "(b) An aggrieved party may petition the Board for a hearing to determine whether  
10 or not a licensee or ~~trainee~~-associate defaulted upon an obligation owed to the aggrieved  
11 party by the licensee or ~~trainee~~-associate; whether, if such an obligation is found, it arose  
12 within the licensee's or ~~trainee's~~-associate's scope of employment while providing private  
13 protective services; and if so, the amount of damages suffered by the aggrieved party.  
14 Said hearing shall be governed by the procedures of Chapter 150B of the General  
15 Statutes."

16 Sec. 24. G.S. 74C-33 reads as rewritten:

17 "**§ 74C-33. Maximum liability; pro rata distribution.**

18 (a) Payments from the Fund shall be subject to the following limitations:

- 19 (1) The Fund shall not be liable for more than five thousand dollars  
20 (\$5,000) per obligation regardless of the number of persons aggrieved;  
21 and  
22 (2) The liability of the Fund shall not exceed in the aggregate ten thousand  
23 dollars (\$10,000) for any one licensee or ~~trainee~~-associate within a single  
24 calendar year.

25 (b) If the maximum liability of the Fund is insufficient to pay in full the valid  
26 claims of all aggrieved persons whose claims relate to the same obligation or to the same  
27 licensee or ~~trainee~~-associate, the amount for which the Fund is liable shall be distributed  
28 among the claimants in a ratio that their respective claims bear to the total of such valid  
29 claims or in such manner as the Board deems equitable. Upon action of the Board or  
30 parties, the Board may require all claimants and prospective claimants to be joined in one  
31 action to the end that the respective rights of all such claimants to the Fund may be  
32 equitably adjudicated and settled."

33 Sec. 25. This act is effective upon ratification.