

Chapter 74D.

Alarm Systems.

Article 1.

Alarm Systems Licensing Act.

§ 74D-1. Title.

This act may be cited as the "Alarm Systems Licensing Act." (1983, c. 786, s. 1.)

§ 74D-2. 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. 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. The 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. For purposes of this Chapter an "alarm systems business" is defined as any person, firm, association or corporation that does any of the following:

(1) Sells or attempts to sell an alarm system device by engaging in a personal solicitation at a residence or business to advise, design, or consult on specific types and specific locations of alarm system devices.

(2) Installs, services, monitors, or responds to electrical, electronic or mechanical alarm signal devices, burglar alarms, monitored access control, or cameras used to detect burglary, breaking or entering, intrusion, shoplifting, pilferage, theft, or other unauthorized or illegal activity. This provision shall not apply to a locking device that records entry and exit data and does not transmit the data in real time to an on-site or off-site monitoring location, provided the installer is duly licensed by the North Carolina Locksmith Licensing Board.

(b) Repealed by Session Laws 1989, c. 730, s. 1.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) 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) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009.

(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 90 days after the original qualifying agent ceases to serve as qualifying agent.

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

(5) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009.

(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:

(1) The applicant is at least 18 years of age.

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

(e) Examination. - The Board may require the applicant to demonstrate the applicant's qualifications by examination.

(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 the disclosure. The provisions of this subsection shall not apply when a licensee's home address or

telephone number is also the licensee's business address and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor. (1983, c. 786, s. 1; 1985, c. 561, s. 1; 1989, c. 730, s. 1; 1991 (Reg. Sess., 1992), c. 953, s. 1; 1999-446, s. 2; 2002-147, s. 4; 2009-328, s. 15; 2009-557, s. 1.)

§ 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. (2009-328, s. 16.)

§ 74D-3. Exemptions.

The provisions of this Chapter shall not apply to:

(1) A person, firm, association or corporation that sells or manufactures alarm systems, unless the person, firm, association or corporation makes personal solicitations at a residence or business to advise, design, or consult on specific types and specific locations of alarm system devices, installs, services, monitors, or responds to alarm systems at or from a protected premises or a premises to be protected and thereby obtains knowledge of specific application or location of the alarm system. A person licensed under this Chapter may hire a consultant to troubleshoot a location or installation for a period of time not to exceed 48 hours in a one-month period if the

licensee submits a report to the Board within 30 days from the date of the consultation designating the consultant as a temporary consultant;

(2) Installation, servicing or responding to fire alarm systems or any alarm device which is installed in a motor vehicle, aircraft or boat;

(3) Installation of an alarm system on property owned by or leased to the installer;

(4) An alarm monitoring company located in another state which demonstrates to the Board's satisfaction that it does not conduct any business through a personal representative present in this State but which solicits and conducts business solely through interstate communication facilities such as telephone messages, earth satellite relay stations and the United States postal service; and

(5) A person or business providing alarm systems services to a State agency or local government if that person or business has been providing those services to the State agency or local government for more than five years prior to the effective date of this Chapter, and the State agency or local government joins with the person or business in requesting the application of this exemption. (1983, c. 786, s. 1; 1987, c. 11; 1989, c. 730, s. 2; 1991 (Reg. Sess., 1992), c. 953, s. 2; 2009-557, s. 2.)

§ 74D-4. Alarm Systems Licensing Board.

(a) The Alarm Systems Licensing Board is hereby established.

(b) The Board shall consist of seven members: the Attorney General or his designee; two persons appointed by the Governor, one of whom shall be licensed under this Chapter and one of whom shall be a public member; two persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and one of whom shall be a public member; and two persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom shall be licensed under this Chapter and one of whom shall be a public member.

(c) Each member shall be appointed for a term of three years and shall serve until a successor is installed. No member shall serve more than two complete three-year consecutive terms. The term of each member, other than the Attorney General or his designee, who is serving on August 7, 1989, shall terminate on June 30, 1989. Of the appointments made by the General Assembly upon the recommendation of the President of the Senate to begin on July 1, 1989, one member shall be for a term of one year and one member shall be for a term of three years. Of the appointments made by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one member shall be appointed for a term of two years and one member shall be appointed for a term of three years. Thereafter all terms shall be for three years.

(d) A vacancy on the Board shall be filled for the unexpired term by the original appointing authority. Vacancies in legislative appointments shall be filled under G.S. 120-122. A vacancy

may be created by removal of a Board member, either at the pleasure of the original appointing authority or by the remaining members of the Board for misconduct, incompetence or neglect of duty. A Board member may only be removed by remaining board members pursuant to a hearing at which the member subject to removal has an opportunity to be heard.

(e) Board members who are also State officers or employees shall receive no per diem compensation for serving on the Board, and shall only receive the travel allowances set forth in G.S. 138-6. All other Board members shall receive reimbursement in accordance with G.S. 93B-5(b) and, notwithstanding G.S. 93B-5(a), shall receive as compensation for their services per diem not to exceed one hundred dollars (\$100.00) for each day during which they are engaged in the official business of the Board. The Board shall set the per diem compensation of Board members who are not also State officers or employees.

(f) The Board shall elect a chairman and a vice-chairman from its membership by majority vote at the first meeting of its fiscal year. The vice-chairman shall serve as chairman of the screening committee and shall also serve as chairman in the chairman's absence. At no time shall both the positions of chairman and vice-chairman be held by either an industry representative or a nonindustry representative.

(g) The Board shall meet at the call of the chairman or a majority of the members of the Board. The Board shall adopt rules governing the call and conduct of its meetings. A majority of the current Board membership constitutes a quorum.

(h) The Board shall pay the appropriate State agency for the use of physical facilities and services provided to it by the State. (1983, c. 786, s. 1; 1985, c. 561, s. 4; 1985 (Reg. Sess., 1986), c. 1026, s. 18; 1989, c. 730, s. 3; 1991 (Reg. Sess., 1992), c. 953, s. 3; 1995, c. 490, s. 6; 2011-145, s. 16.3(b).)

§ 74D-5. Powers of the Board.

(a) 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 and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;

(3) Conduct investigations regarding alleged violations and make evaluations as may be necessary to determine if licensees and registrants 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) Investigate and approve individual applicants to be licensed or registered according this Chapter;

(6) Deny, suspend, or revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter or the rules established by the Board. The denial, suspension, or revocation of such license shall be in accordance with Chapter 150B of this 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. for acts occurring in matters pending before the Board which would constitute civil contempt if the acts occurred in an action pending in court; and

(8) Contract for services as necessary to carry out the functions of the Board.

(b) 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 registration under this Chapter. (1983, c. 786, s. 1; 1987, c. 827, s. 1; 1999-456, s. 21.)

§ 74D-5.1. Position of Director created.

The position of Director of the Alarm Systems Licensing Board is hereby created within the Department of Justice. The Attorney General shall appoint a person to fill this full-time position. The Director's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to carry out the administrative duties incident to the functioning of the Board in order to actively police the alarm systems industry to insure compliance with the law in all aspects. The Director may issue a temporary grant or denial of a request for registration subject to final action by the Board at its next regularly scheduled meeting. (1985, c. 561, s. 3; 1991 (Reg. Sess., 1992), c. 953, s. 4; 1999-456, s. 22; 2001-487, s. 65(a).)

§ 74D-5.2. 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 deemed 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. (1985, c. 561, s. 5; 2009-557, s. 3.)

§ 74D-6. Denial of a license or registration.

Upon a finding that the applicant meets the requirements for licensure or registration under this Chapter, the Board shall determine whether the applicant shall receive the license or registration applied for. The grounds for denial include:

- (1) Commission of some act which, if committed by a registrant or licensee, would be grounds for the suspension or revocation of a registration or 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 or entering, burglary or 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;
- (4) Previous denial under this Chapter or previous revocation for cause;
- (5) Knowingly making any false statement or misrepresentation in an application made to the Board for a license or registration. (1983, c. 786, s. 1; 1985, c. 561, s. 2; 1991 (Reg. Sess., 1992), c. 953, s. 5.)

§ 74D-7. Form of license; term; assignability; renewal; posting; branch offices; fees.

- (a) The license when issued shall be in a form determined by the Board and shall state all of the following:
 - (1) The name of the licensee.
 - (2) The name under which the licensee is to operate.
 - (3) The number and expiration date of the license.
- (b) The license shall be issued for a term of two years. Each license must be renewed before expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the principal place of business of the licensee. A license issued under this Chapter is not assignable.
- (c) No licensee shall engage in any business regulated by this Chapter under a name other than the licensee name or names which appear on the certificate issued by the Board.

(d) Any branch office of an alarm systems business shall obtain a branch office certificate. A separate certificate stating the location and licensed qualifying agent shall be posted at all times in a conspicuous place in each branch office. Every business covered under the provisions of this Chapter shall file in writing with the Board the addresses of each of its branch offices. All licensees of a branch office shall notify the Board in writing before the establishment, closing, or changing of the location of any branch office. A licensed qualifying agent may be responsible for more than one branch office of an alarm systems business with the prior approval of the Board. Temporary approval may be granted by the Director, upon application of the qualifying agent, for a period of time not to exceed 10 working days after the adjournment of the next regularly scheduled meeting of the Board unless the Board determines that the application should be denied.

(e) The Board may charge the following fees, which must be expended, under the direction of the Board, to defray the expense of administering this Chapter:

(1) A nonrefundable initial license 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 five hundred dollars (\$500.00).

(3) A late license 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 license.

(4) A new or renewal registration fee in an amount not to exceed fifty dollars (\$50.00) plus any fees charged to the board for background checks by the State Bureau of Investigation.

(5) A fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars (\$10.00).

(6) A branch office certificate fee not to exceed one hundred fifty dollars (\$150.00).

(7) A fee not to exceed fifty dollars (\$50.00) for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.

(8) A late registration fee, to be paid in addition to the registration renewal fee, not to exceed twenty dollars (\$20.00) for an application submitted no more than 30 days after the expiration of the registration permit. A registration application submitted more than 30 days after the registration has expired shall be registered as a new applicant. (1983, c. 786, s. 1; 1989, c. 730, s. 4; 1991 (Reg. Sess., 1992), c. 953, s. 6; 2001-487, s. 65(b); 2004-201, s. 1; 2009-557, s. 4.)

§ 74D-8. Registration of persons employed.

- (1) All licensees of an alarm systems business shall register with the Board within 30 days after the employment begins, all of the licensee's employees that are within the State, unless in the discretion of the Director, the time period is extended for good cause. To register an employee, a

licensee shall submit to the Board as to the employee: set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of acceptable quality for identification; and statements of any criminal records as deemed appropriate by the Board.

(2) Except during the period allowed for registration in subdivision (a)(1) of this section, no alarm systems business may employ any employee unless the employee's registration has been approved by the Board as set forth in this section.

(b) The Director shall be notified in writing of the termination of any employee registered under this Chapter within 20 days after the termination.

(c) The Board shall issue a registration card to each employee of a licensee who is registered under this Chapter. The registration card shall expire two years after its date of issuance and shall be renewed before the expiration of the term of the registration. If a registered person changes employment to another licensee, the registration card may remain valid; however, persons changing employment must pay the fee authorized by G.S. 74D-7(e)(5).

(d) If all required documents, properly completed, have been submitted to the Board no later than 20 days after an employee begins employment, the employer of each applicant for registration shall give the applicant a copy of the complete application which the employee can use until a registration card issued by the Board is received. (1983, c. 786, s. 1; 1985, c. 561, s. 6; 1989, c. 730, s. 5; 1991 (Reg. Sess., 1992), c. 953, s. 7; 2001-487, s. 65(c); 2009-557, s. 5.)

§ 74D-8.1. Apprenticeship registration permit.

(a) The Board may issue an apprenticeship registration permit to an applicant who is 16 or 17 years old and currently enrolled in high school if the applicant holds a valid drivers license and submits at least three letters of recommendation stating that the applicant is of good moral character as provided in G.S. 74D-2(d)(2). The letters of recommendation shall be from persons who are not related to the individual, and at least one of the letters shall be from an official at the school where the applicant is currently enrolled.

(b) There shall be no fee for an apprenticeship registration permit, and the permit shall expire when the holder attains the age of 18 years. The denial, suspension, or revocation of an apprenticeship registration permit shall be in accordance with the provisions of Chapter 150B of the General Statutes.

(c) The applicant shall not perform services as authorized under this Chapter until after the Board has reviewed his or her application and issued him or her an apprenticeship registration permit. The holder of an apprenticeship registration permit shall be accompanied by a licensee or registered employee while engaged in activities authorized under this Chapter. (1999-446, s. 3.)

§ 74D-9. Certificate of liability insurance required; form and approval; suspension for noncompliance.

(a) to (c) Repealed by Session Laws 1985, c. 561, s. 8.

(d) No license shall be issued under this act unless the applicant files with the Board evidence of a policy of liability insurance which 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 or death of two or more persons as the result of the negligent act or acts of the principal insured or his agent 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 the 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.

(e) An insurance carrier shall have the right to cancel such policy of liability insurance upon giving written notice to the Board within a reasonable time before the effective date of the cancellation. 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.

(f) Every licensee shall at all times maintain on file with the Board a 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. (1983, c. 786, s. 1; 1985, c. 561, s. 8; 1989, c. 730, s. 6; 1991 (Reg. Sess., 1992), c. 953, s. 8.)

§ 74D-10. Suspension or revocation of licenses and registrations; appeal.

(a) The Board may, after notice and an opportunity for hearing, suspend or revoke a license or registration issued under this Chapter if it is determined that the licensee or registrant has:

(1) Made any false statement or given any false information in connection with any application for a license or registration, or for the renewal or reinstatement of a license or registration.

(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) Failed to correct business practices or procedures that have resulted in a prior reprimand by the Board.

- (6) Impersonated or permitted or aided and abetted any other person to impersonate a law-enforcement officer of the United States, this State, or any of its political subdivisions.
 - (7) Engaged in or permitted any employee to engage in any alarm systems business when not lawfully in possession of a valid license issued under the provisions of this Chapter.
 - (8) Committed an unlawful breaking or entering, assault, battery, or kidnapping.
 - (9) Committed any other act which is a ground for the denial of an application for a license or registration under this Chapter.
 - (10) Failed to maintain the certificate of liability required by this Chapter.
 - (11) Any judgment of incompetency by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or commitment to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3(21), by a court having jurisdiction under Article 5 of Chapter 122C of the General Statutes.
 - (12) Accepted payment in advance for services not performed within a reasonable time period.
 - (13) A lack of temperate habits or good moral character. The acts that are prima facie evidence of lack of temperate habits or good moral character under G.S. 74D-6(3) are prima facie evidence of the same under this subdivision.
 - (14) Been previously denied a license or registration under this Chapter or previously had a license or registration revoked for cause.
 - (15) Engaged in the alarm systems profession under a name other than the name under which the license was obtained under the provisions of this Chapter.
 - (16) Advertised or solicited business using a name other than that in which a license was issued.
 - (17) 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.
 - (18) Failed to properly make any disclosure or provide documents or information required by this Chapter or by the Board.
 - (19) Engaged in conduct that constitutes dereliction of duty or otherwise deceives, defrauds, or harms the public in the course of professional activities or services.
 - (20) Demonstrated a lack of financial responsibility.
- (b) The revocation or suspension of license or registration by the Board as provided in subsection (a) shall be in writing, stating the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from such decision as provided in Chapter

150B of the General Statutes. (1983, c. 786, s. 1; 1985, c. 561, s. 9; 1987, c. 550, s. 21; c. 827; s. 1; 1989, c. 730, s. 7; 1991 (Reg. Sess., 1992), c. 953, s. 9; 2009-557, s. 6.)

§ 74D-11. Enforcement.

(a) The Board is authorized to apply in its own name to any judge of the Superior Court of the General Court of Justice for an injunction in order to prevent any violation or threatened violation of the provisions of this Chapter.

(b) Any person, firm, association, corporation, or department or division of a firm, association or corporation, or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a Class 1 misdemeanor. The Attorney General, or his representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter.

(c) The regulation of alarm systems businesses shall be exclusive to the Board; however, any city or county shall be permitted to require an alarm systems business operating within its jurisdiction to register and to supply information regarding its license, and may adopt an ordinance to require users of alarm systems to obtain revocable permits when alarm usage involves automatic signal transmission to a law-enforcement agency.

(d) In lieu of revocation of suspension of a license or registration under G.S. 74D-10, a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person 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. The clear proceeds of all penalties collected under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Proceedings for the assessment of civil penalties shall be governed by Chapter 150B of the General Statutes. If the person assessed a 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.

(f) The sale, installation, or service of an alarm system by an unlicensed or unregistered person shall constitute a threat to the public safety, and any contract for the sale, installation, or service of an alarm system shall be deemed void and unenforceable. (1983, c. 786, s. 1; 1989, c. 730, s. 8; 1991 (Reg. Sess., 1992), c. 953, s. 10; 1993, c. 539, s. 558; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 127; 2009-557, s. 7.)

§ 74D-12. Severability.

If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. (1983, c. 786, s. 1.)

§ 74D-13. Transfer of funds.

All fees collected pursuant to Chapter 74C of the General Statutes from alarm systems businesses which have not been expended upon January 1, 1984, shall be transferred to the Board by the Private Protective Services Board for the purpose of defraying the expenses of administering this act. (1983, c. 786, s. 1.)

§ 74D-14. Proof of licensure to maintain or commence action.

An alarm systems business may not maintain any action in any court of the State for the collection of compensation for performing an act for which a license or registration is required by this Chapter without alleging and proving that the alarm systems business is appropriately licensed and the employee or agent of the alarm systems business is appropriately registered upon entering into a contract with the consumer. An alarm systems installation, maintenance, or monitoring contract entered into with a consumer shall be void if the consumer confirms through records maintained by the Board that the alarm systems business is not properly licensed or the consumer establishes through records maintained by the Board that the person enticing the consumer to enter into the contract is not properly registered by the Board. The sale, installation, or service of an alarm system by an unlicensed or unregistered employee shall be deemed an unfair and deceptive trade practice and shall be actionable under Chapter 75 of the General Statutes. (2009-557, s. 8.)

Article 2.

Alarm Systems Education Fund.

§ 74D-30. Alarm Systems Education Fund created; payment to Fund; management; use of funds.

(a) There is hereby created and established a special fund to be known as the "Alarm Systems Education Fund" (hereinafter Fund) which shall be set aside and maintained in the office of the State Treasurer. The Fund shall be used in the manner provided in this Article for the education of licensees and registrants.

(b) Repealed by Session Laws 2009-557, s. 10, effective October 1, 2009, and applicable to licenses or registrations issued or renewed on or after that date.

(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) On July 1, 1985, the Board shall charge every licensee on that date a fee of fifty dollars (\$50.00);

(2) The Board shall charge each new applicant for a license 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 on July 1, 1985; and

(3) The Board is authorized to charge each licensee 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).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law. The Board in its discretion, may use the Fund for any of the following purposes:

(1) To advance education and research in the alarm systems field for the benefit of those licensed 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, and

(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 alarm systems field in North Carolina. (1985, c. 561, s. 7; 2009-557, s. 10.)