

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 584\*  
Judiciary II Committee Substitute Adopted 4/20/09  
Finance Committee Substitute Adopted 5/27/09

Short Title: Amend Private Protective Services Act.

(Public)

Sponsors:

Referred to:

March 12, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE PRIVATE PROTECTIVE SERVICES ACT.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 74C-3(b) is amended by adding a new subdivision to read:

5 "(b) "Private protective services" shall not include any of the following:

6 ...

7 (17) A person engaged in (i) computer or digital forensic services or in the  
8 acquisition, review, or analysis of digital or computer-based information,  
9 whether for the purposes of obtaining or furnishing information for  
10 evidentiary or other purposes, or for providing expert testimony before a  
11 court; or (ii) network or system vulnerability testing, including network  
12 scans and risk assessment and analysis of computers connected to a network.

13 ...."

14 **SECTION 2.** G.S. 74C-7 reads as rewritten:

15 "§ 74C-7. **Investigative powers of the Attorney General.**

16 The Attorney General for the State of North Carolina shall have the power to investigate or  
17 cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations  
18 of this Chapter involving individuals licensed, or to be licensed, under this Chapter. Any  
19 investigation conducted pursuant to this section is deemed confidential and is not subject to  
20 review under G.S. 132-1 until the investigation is complete and a report is presented to the  
21 Board. However, the report may be released to the licensee after the investigation is complete  
22 but before the report is presented to the Board."

23 **SECTION 3.** G.S. 74C-8(c) reads as rewritten:

24 "(c) (1) A business entity other than a sole proprietorship shall not do business under  
25 this Chapter unless the business entity has in its employ a designated  
26 resident qualifying agent who meets the requirements for a license issued  
27 under this Chapter and who is, in fact, licensed under the provisions of this  
28 Chapter, unless otherwise approved by the Board. Provided however, that  
29 this approval shall not be given unless the business entity has and  
30 continuously maintains in this State a registered agent who shall be an  
31 individual resident in this State. Service upon the registered agent appointed  
32 by the business entity of any process, notice, or demand required by or  
33 permitted to be served upon the business entity by the Private Protective  
34 Services Board shall be binding upon the business entity and the licensee.  
35 Nothing herein contained shall limit or affect the right to serve any process,



1 notice, or demand required or permitted by law to be served upon a business  
2 entity in any other manner now or hereafter permitted by law.

3 (2) For the purposes of the Chapter a qualifying agent means an individual in a  
4 management position who is licensed under this Chapter and whose name  
5 and address have been registered with the Director.

6 (3) In the event that the qualifying agent upon whom the business entity relies in  
7 order to do business ceases to perform his duties as qualifying agent, the  
8 business entity shall notify the Director within 10 working days. The  
9 business entity must obtain a substitute qualifying agent within 30 days after  
10 the original qualifying agent ceases to serve as qualifying agent unless for  
11 good cause: (i) the Board, in its discretion, extends this period, for good  
12 cause, for a extends the period of time not to exceed three months; or  
13 (ii) following petition by an applicant and a hearing by the Board, the Board  
14 extends the period of time not to exceed six months.

15 (4) The certificate authorizing the business entity to engage in a private  
16 protective services profession shall list the name of at least one designated  
17 qualifying agent. No licensee shall serve as the qualifying agent for more  
18 than one business entity without prior approval of the Director, subject to the  
19 approval of the Board.

20 (5) The Department of Justice may provide a criminal record check to the  
21 Private Protective Services Board for a person who has applied for a new or  
22 renewal license, registration, certification, or permit through the Private  
23 Protective Services Board. The Board shall provide to the Department of  
24 Justice, along with the request, the fingerprints of ~~the applicant,~~ a new  
25 applicant, and the Department of Justice shall provide a criminal record  
26 check based upon the applicant's fingerprints. The Board may request a  
27 criminal record check from the Department of Justice for a renewal applicant  
28 based upon the applicant's fingerprints in accordance with policy adopted by  
29 the Board. The Board shall provide any additional information required by  
30 the Department of Justice, and a form signed by the applicant consenting to  
31 the check of the criminal record and to the use of the fingerprints and other  
32 identifying information required by the State or national repositories. The  
33 applicant's fingerprints shall be forwarded to the State Bureau of  
34 Investigation for a search of the State's criminal history record file, and the  
35 State Bureau of Investigation shall forward a set of the fingerprints to the  
36 Federal Bureau of Investigation for a national criminal history check. The  
37 Board shall keep all information pursuant to this subdivision privileged, in  
38 accordance with applicable State law and federal guidelines, and the  
39 information shall be confidential and shall not be a public record under  
40 Chapter 132 of the General Statutes.

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

44 **SECTION 4.** G.S. 74C-8(f) reads as rewritten:

45 "(f) Upon a finding that the application is in proper form, the completion of the  
46 background investigation, and the completion of an examination required by the Board, the  
47 Director shall submit to the Board the application and ~~his~~ the Director's recommendations.  
48 Upon completion of the background investigation, the Director may ~~in his discretion~~ issue a  
49 temporary license pending approval of the application by the Board at the next regularly  
50 scheduled meeting. The Board shall determine whether to approve or deny the application for a  
51 license. Upon approval by the Board, a license will be issued to the applicant upon payment by

1 the applicant of the initial license fee and the required contribution to the Private Protective  
2 Services ~~Recovery-Education Fund~~, and certificate of liability insurance."

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

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

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

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

- 15 (1) A nonrefundable initial application fee in an amount not to exceed one  
16 hundred fifty dollars ~~(\$150.00);~~(\$150.00).
- 17 (2) A new or renewal license fee in an amount not to exceed two hundred fifty  
18 dollars (\$250.00) per year of the license ~~term;~~term.
- 19 (3) A new or renewal trainee permit fee in an amount not to exceed two hundred  
20 fifty dollars (\$250.00) per year of the license ~~term;~~term.
- 21 (4) A new or renewal fee for each license or duplicate license in addition to the  
22 basic license referred to in subsection (2) in an amount not to exceed fifty  
23 dollars ~~(\$50.00);~~(\$50.00) per year of the license term.
- 24 (5) A late renewal fee to be paid within 90 days from the date the license,  
25 registration, permit, or certification expires in addition to the renewal fee due  
26 in an amount not to exceed one hundred dollars (\$100.00), if the ~~license~~  
27 license, registration, permit, or certification has not been renewed on or  
28 before the expiration date of the ~~license;~~license, registration, permit, or  
29 certification.
- 30 (6) A new, renewal, replacement or reissuance fee for an unarmed registration  
31 identification card in an amount not to exceed thirty dollars  
32 ~~(\$30.00);~~(\$30.00).
- 33 (7) An application fee for a firearm registration permit not to exceed fifty dollars  
34 ~~(\$50.00);~~(\$50.00).
- 35 (8) A new, renewal, replacement, or reissuance fee for a firearm registration  
36 permit not to exceed thirty dollars ~~(\$30.00);~~(\$30.00).
- 37 (9) An application fee for certification as a certified trainer not to exceed fifty  
38 dollars ~~(\$50.00);~~(\$50.00).
- 39 (10) A renewal or replacement fee for certified trainer certification not to exceed  
40 twenty-five dollars ~~(\$25.00);~~(\$25.00).
- 41 (11) A new nonresident temporary permit fee not to exceed one hundred dollars  
42 ~~(\$100.00);~~(\$100.00).
- 43 (12) An unarmed registration transfer fee not to exceed fifteen dollars  
44 ~~(\$15.00);~~(\$15.00).
- 45 (13) A branch office license fee not to exceed fifty dollars ~~(\$50.00); and~~(\$50.00)  
46 per year of the license term.
- 47 (14) A special limited guard and patrol license fee not to exceed one hundred  
48 dollars ~~(\$100.00);~~(\$100.00) per year of the license term.
- 49 (15) A correctable error fee not to exceed one hundred dollars (\$100.00) for each  
50 subsequent filing of an application following review and rejection of the  
51 initial application.

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

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

5 "(a) All licensees may employ unarmed security guards as probationary employees for  
6 20 consecutive calendar days. Upon completion of the probationary period and the desire of the  
7 licensee to hire an unarmed security guard as a regular employee, the licensee shall register the  
8 employee who will be engaged in providing private protective services covered by this Chapter  
9 with the Board within 30 days after the probationary employment period ends, unless the  
10 Director, in the Director's discretion, extends the time period, for good cause. Before a  
11 probationary employee engages in private protective services, the employee shall complete any  
12 training requirements, and the licensee shall conduct a criminal record check on the employee,  
13 as the Board deems appropriate. The licensee shall submit a list of the probationary employees  
14 to the Director on a monthly basis. The list shall include the name, address, social security  
15 number, and dates of employment of the employees.

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

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

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

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

- 27 (1) Made any false statement or given any false information in connection with  
28 any application for a license, registration, or permit or for the renewal or  
29 reinstatement of a license, registration, or permit.
- 30 (2) Violated any provision of this Chapter.
- 31 (3) Violated any rule adopted by the Board pursuant to the authority contained  
32 in this Chapter.
- 33 (4) Repealed by Session Laws 1989, c. 759, s. 10.
- 34 (5) Impersonated or permitted or aided and abetted any other person to  
35 impersonate a law enforcement officer of the United States, this State, any  
36 other state, or any political subdivision of a state.
- 37 (6) Engaged in or permitted any employee to engage in a private protective  
38 services profession when not lawfully in possession of a valid license issued  
39 under the provisions of this Chapter.
- 40 (7) Willfully failed or refused to render to a client service as agreed between the  
41 parties and for which compensation has been paid or tendered in accordance  
42 with the agreement of the parties.
- 43 (8) Knowingly made any false report to the employer or client for whom  
44 information is being obtained.
- 45 (9) Committed an unlawful breaking or entering, assault, battery, or kidnapping.
- 46 (10) Knowingly violated or advised, encouraged, or assisted the violation of any  
47 court order or injunction in the course of business as a licensee.
- 48 (11) Repealed by Session Laws 1989, c. 759, s. 10.
- 49 (12) Undertaken to give legal advice or counsel or to in any way falsely represent  
50 that he or she is representing any attorney or he or she is appearing or will  
51 appear as an attorney in any legal proceeding.

- 1 (13) Issued, delivered, or uttered any simulation of process of any nature which  
2 might lead a person ~~or persons~~ to believe that such simulation – written,  
3 printed, or typed – may be a summons, warrant, writ or court process, or any  
4 pleading in any court proceeding.
- 5 (14) Failed to make the required contribution to the Private Protective Services  
6 ~~Recovery~~ Education Fund or failed to maintain the certificate of liability  
7 insurance required by this Chapter.
- 8 (15) Violated the firearm provisions set forth in this Chapter.
- 9 (16) Repealed by Session Laws 1989, c. 759, s. 10.
- 10 (17) Failed to notify the Director by a business entity other than a sole  
11 proprietorship licensed pursuant to this Chapter of the cessation of  
12 employment of the business entity's qualifying agent within the time set  
13 forth in this Chapter.
- 14 (18) Failed to obtain a substitute qualifying agent by a business entity within 30  
15 days after its qualifying agent has ceased to serve as the business entity's  
16 qualifying agent.
- 17 (19) Been judged incompetent by a court having jurisdiction under Chapter 35A  
18 or former Chapter 35 of the General Statutes or committed to a mental health  
19 facility for treatment of mental illness, as defined in G.S. 122C-3, by a court  
20 under G.S. 122C-271.
- 21 (20) Failed or refused to offer a report to a client within 30 days of the client's  
22 written request after the client has paid for services rendered.
- 23 (21) Been previously denied a license, registration, or permit under this Chapter  
24 or previously had a license, registration, or permit revoked for cause. The  
25 denial or revocation shall include a principal in the applicant's business.
- 26 (22) Engaged in a private protective services profession under a name other than  
27 the name under which the license was obtained under the provisions of this  
28 Chapter.
- 29 (23) Divulged to any person, except as required by law, any information acquired  
30 by the license holder except at the direction of the employer or client for  
31 whom the information was obtained. A licensee may divulge to any law  
32 enforcement officer or district attorney or district attorney's representative  
33 any information the law enforcement officer may require to investigate a  
34 criminal offense with the prior approval and consent of the client.
- 35 (24) Fraudulently held himself or herself out as employed by or licensed by the  
36 State Bureau of Investigation or any other governmental authority.
- 37 (25) ~~Intemperate~~ Demonstrated intemperate habits or lacks a lack of good moral  
38 character. The acts that are prima facie evidence of intemperate habits or  
39 lack of good moral character under G.S. 74C-8(d)(2) are prima facie  
40 evidence of the same under this subdivision.
- 41 (26) Advertised or solicited business using a name other than that in which the  
42 license was issued.
- 43 (27) Worn, carried, or accepted any badge or shield purporting to indicate that the  
44 person is a law enforcement officer while licensed under the provisions of  
45 this Chapter as a private investigator.
- 46 (28) Possessed or displayed a badge or shield while providing private protective  
47 services that was not designed and approved by the Board pursuant to  
48 G.S. 74C-5(12).
- 49 (29) Failed or refused to reasonably cooperate with the Board or its agents during  
50 an investigation of any complaint, allegation, suspicion of wrongdoing, or  
51 violation of this Chapter.

- 1           (30) Failed to properly make any disclosure to the Board or provide documents or  
2 information required by this Chapter or rules adopted by the Board.  
3           (31) Engaged in conduct constituting dereliction of duty or otherwise deceived,  
4 defrauded, or harmed the public in the course of professional activities or  
5 services.  
6           (32) Demonstrated a lack of financial responsibility."

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

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

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

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

14           "(a) It shall be unlawful for any person performing private protective services duties to  
15 carry a firearm in the performance of those duties without first having met the qualifications of  
16 this section and having been issued a firearm registration permit by the Board. A licensee shall  
17 register any individual carrying a firearm within 30 days of employment. Before engaging in  
18 any private protective services activity, the individual shall receive any required training  
19 prescribed by the Board."

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

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

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

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

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



1 advertising the following statement: "The course is being given in whole or  
2 in part by a grant from the Private Protective Services Board."  
3 (e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand  
4 dollars (\$50,000) may be converted to offset the operating expenses of the Board. However, in  
5 converting the funds, the Board shall make findings of fact by a written order or resolution  
6 supporting the need to make the conversion."  
7 **SECTION 14.** G.S. 74C-31, 74C-32, and 74C-33 are repealed.  
8 **SECTION 15.** This act becomes effective October 1, 2009.