

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 248*

Short Title: NC Board of Proprietary Schools. (Public)

Sponsors: Senator Curtis (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 14, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA PROPRIETARY SCHOOL LICENSURE
3 ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 8 of Chapter 115D of the General Statutes is repealed.

6 **SECTION 2.** The General Statutes are amended by adding a new Chapter to read:

7 **Chapter 115F.**

8 **"North Carolina Proprietary School Licensure Act.**

9 **"§ 115F-1. Short title.**

10 This Chapter shall be known as the "North Carolina Proprietary School Licensure Act."

11 **"§ 115F-2. Purpose.**

12 The purpose of this Chapter is to provide for the establishment, organization, and
13 administration of educational institutions having a physical presence in North Carolina that
14 educate or train students in vocational programs leading toward professional licensing
15 examination, employment, or a postsecondary degree below the associate level. The major
16 purpose of each institution operating under this Chapter shall be to provide a quality education
17 through a sustained curriculum equal to that prescribed for similar public schools and educational
18 institutions of the State that have met the standards set forth by the North Carolina Board of
19 Proprietary Schools, including course offerings, adequate facilities, financial stability, competent
20 personnel, and legitimate operating practices.

21 **"§ 115F-3. Definitions.**

22 The following definitions apply in this Chapter:

23 (1) Board. – North Carolina Board of Proprietary Schools.

24 (2) Catastrophic loss amount. – Funds in the amount of one million five hundred
25 thousand dollars (\$1,500,000) to protect prepaid student tuition in case of a
26 large-scale event that would draw against the Student Protection Fund.

27 (3) Commercial Education Fund. – The Fund established in G.S. 115F-8.

28 (4) Distance education. – Education, training courses, or programs delivered to a
29 student who is geographically separate from the instructor. Distance education
30 shall not include education, training courses, or programs delivered by
31 institutions licensed under G.S. 116-15. Delivery systems employed by a
32 proprietary school may include (i) correspondence, (ii) classroom instruction,
33 (iii) instruction provided in hotels or other temporary dwelling units or areas, or
34 (iv) electronic communications.



- 1 (5) Fund cap amount. – The cap amount for the Student Protection Fund that is
2 equal to the catastrophic loss amount plus a reserve in the amount of five
3 hundred thousand dollars (\$500,000).
- 4 (6) License. – A certificate issued by the Board to a proprietary school that meets
5 the requirements established for a proprietary school by this Chapter and rules
6 adopted pursuant to this Chapter.
- 7 (7) Person. – Any individual, association, partnership, or corporation, and includes
8 any director, receiver, referee, trustee, executor, or administrator as well as a
9 natural person.
- 10 (8) Proprietary school. – An educational institution having a physical presence
11 within North Carolina, including a branch or extension of a private
12 postsecondary educational institution of another state that (i) is located in this
13 State or (ii) offers educational services or education at a physical location
14 within this State, that meets all of the following conditions:
- 15 a. It is privately owned by a sole proprietorship, partnership, limited
16 liability company, or corporation.
- 17 b. It is established as a business entity or as a nonprofit charitable
18 organization.
- 19 c. It offers instruction to individuals who (i) have completed their
20 elementary and secondary education or (ii) are beyond the age of
21 compulsory secondary school attendance and have demonstrated an
22 ability to benefit from that instruction for the attainment of educational
23 objectives, vocational objectives, or both.
- 24 d. It charges tuition or receives any consideration from a student for any
25 portion of the instruction in any form, including written or audiovisual
26 material.
- 27 e. It educates, trains, or claims to educate or train students in a program
28 leading toward (i) examinations for licensing in a profession or
29 vocation, (ii) employment at a beginning or advanced level, or (iii) a
30 postsecondary educational credential below the associate degree level.
- 31 (9) Student Protection Fund. – The Fund established in G.S. 115F-13.

32 **§ 115F-4. Exemptions.**

33 The following shall be exempt from the provisions of this Chapter:

- 34 (1) Nonprofit schools conducted by (i) charities that are exempt from taxation
35 under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is
36 charged to the student or (ii) religious institutions.
- 37 (2) Schools maintained or classes conducted by employers for their own employees
38 where no fee or tuition is charged to the student.
- 39 (3) Courses of instruction given by any fraternal society, civic club, or benevolent
40 order, which courses are not operated for profit.
- 41 (4) Any school for which there is another legally existing licensing or approving
42 board or agency in this State.
- 43 (5) Classes or schools that are equipment-specific to purchasers, users, classes, or
44 schools offering training or instruction to acquaint purchasers or users with
45 equipment capabilities.
- 46 (6) Classes or schools that the Board determines are avocational, recreational, for
47 self-improvement, or continuing education for already trained and
48 occupationally qualified individuals.
- 49 (7) Any established university, professional, or liberal arts college, public or
50 private school regulated or recognized pursuant to Chapter 115C of the General
51 Statutes or by any other State agency, or any State institution which has offered,

1 or which may offer, one or more courses covered in this Chapter, provided that
2 the tuition, fees, and charges, if any, made by such university, college, high
3 school, or State institution shall be collected by their regular officers in
4 accordance with the rules prescribed by the board of trustees or governing body
5 of such university, college, high school, or State institution.

6 (8) Any institution exempt from licensure pursuant to G.S. 116-15(c).

7 **§ 115F-5. North Carolina Board of Proprietary Schools.**

8 (a) There is established the North Carolina Board of Proprietary Schools located
9 administratively within the Department of Administration, but the Board shall exercise all its
10 prescribed powers independently of the Department of Administration. The Board shall consist of
11 seven members appointed or serving ex officio as follows:

12 (1) Two members appointed by the Governor.

13 (2) Two members appointed upon recommendation of the President Pro Tempore
14 of the Senate, as provided in G.S. 120-121, as follows:

15 a. One member who is the owner or director of a proprietary school
16 licensed in the State with a total annual enrollment of fewer than 100
17 students.

18 b. One member who is the owner or director of a proprietary school or
19 group of proprietary schools licensed in the State with a total annual
20 enrollment of more than 750 students.

21 (3) Two members appointed upon recommendation of the Speaker of the House of
22 Representatives, as provided in G.S. 120-121, as follows:

23 a. One member who is the owner or director of a proprietary school
24 licensed in the State with a total annual enrollment between 100 and 750
25 students.

26 b. One member who is the owner or director of a proprietary school
27 licensed in the State.

28 (4) The President of the North Carolina Community College System or the
29 President's designee.

30 (b) Members appointed pursuant to subsection (a) of this section shall possess (i) a
31 demonstrated history of experience related to a proprietary school or public postsecondary
32 education, (ii) an understanding of standards of quality in postsecondary education, and (iii) a
33 leadership background beyond the leadership experience demonstrated at a particular proprietary
34 school.

35 (c) Appointments for all members shall be for terms of four years beginning on January 1.
36 Appointed members may be reappointed but shall not serve more than two consecutive terms of
37 four years. Vacancies among appointed members shall be filled by the appointing entity and shall
38 be for the remainder of the vacant term. Vacancies appointed by the General Assembly shall be
39 filled in accordance with G.S. 120-122.

40 (d) The Board shall elect from the appointed members a chair and a vice-chair for terms of
41 two years. A chair or vice-chair may serve no more than two consecutive terms in that role.

42 (e) No member of the General Assembly, spouse of a member of the General Assembly, or
43 officer or employee of the State shall be eligible to serve on the Board as an appointed member.

44 (f) The Board may declare vacant the office of a member who does not attend three
45 consecutive scheduled meetings without justifiable excuse. The chair shall notify the appropriate
46 appointing authority of any such vacancy.

47 (g) The Board shall meet at stated times established by the Board but not less frequently
48 than four times a year. Special meetings of the Board may be set at any regular meeting or may be
49 called by the chair. A majority of the appointed members of the Board shall constitute a quorum
50 for the transaction of business.

1 (h) Members of the Board shall receive such per diem compensation and necessary travel
2 and subsistence expenses while engaged in the official discharge of the official duties as provided
3 in G.S. 93B-5.

4 **"§ 115F-6. Powers and duties of the Board.**

5 The Board shall have the following powers and duties:

- 6 (1) Administer and enforce the provisions of this Chapter, including all of the
7 following powers:
- 8 a. Have the powers of a body corporate, including the power to make
9 contracts and to alter the same as may be deemed expedient.
- 10 b. Be authorized and empowered to rent and lease such property, real or
11 personal, as the Board may deem proper to carry out the purposes and
12 provisions of this Chapter, all or any of them.
- 13 c. Establish an office for the transaction of its business at such place or
14 places as, in the opinion of the Board, shall be advisable or necessary in
15 carrying out the purposes of this Chapter.
- 16 d. Be authorized and empowered to pay from the Commercial Education
17 Fund all necessary costs and expenses involved in and incident to the
18 formation, organization, and administration of the Board and all other
19 costs and expenses reasonably necessary or expedient in carrying out
20 and accomplishing the purposes of this Chapter.
- 21 e. Be authorized and empowered to do any and all other acts and things in
22 this Chapter authorized or required to be done, whether or not included
23 in the general powers listed in this section.
- 24 (2) Adopt rules in accordance with Chapter 150B of the General Statutes as may be
25 necessary to administer the provisions of this Chapter.
- 26 (3) Grant and issue licenses to proprietary schools whose sustained curriculum is of
27 a grade equal to that prescribed for similar public schools and educational
28 institutions of the State and that have met the standards set forth by the Board,
29 including offerings, adequate facilities, financial stability, competent personnel,
30 and legitimate operating practices.
- 31 (4) Formulate the criteria and the standards for the approval of proprietary schools.
- 32 (5) Provide for adequate investigations of all proprietary schools applying for a
33 license. The Board shall not contract with or employ a person who is employed
34 by a proprietary school licensed by the Board to serve as an investigator or
35 inspector.
- 36 (6) Issue licenses to those applicants meeting the standards adopted by the Board.
- 37 (7) Maintain a list of schools licensed under the provisions of this Chapter and
38 make that list available for inspection by the public.
- 39 (8) Provide for periodic inspection of all schools licensed under the provisions of
40 this Chapter.
- 41 (9) Oversee the proprietary schools in the State in order to protect the health,
42 safety, and welfare of the public by requiring the proprietary schools to
43 maintain adequate, safe, and sanitary school locations, sufficient and proper
44 facilities and equipment, sufficient and qualified teaching and administrative
45 staff, and satisfactory programs of operation and instruction and to require
46 proprietary schools to carry out advertised promises and contracts made with its
47 students and patrons.
- 48 (10) Request any occupational licensing or approving board or agency in this State
49 to adopt rules requiring the approval of that board or agency for a course of
50 study. Under these rules, the board or agency shall pass on the adequacy of

1 equipment, curricula, and instructional personnel. The Board may deny
2 approval to a course of study that is not approved by such board or agency.

3 (11) Pursuant to the maximum amounts set forth by this Chapter and other specific
4 authority authorizing fees, establish reasonable fees related to the approval and
5 operation of proprietary schools.

6 **"§ 115F-7. Office of Proprietary Schools.**

7 (a) The Board shall establish an Office of Proprietary Schools as its principal
8 administrative unit staffed with full-time State employees as provided by this section. The Board
9 shall employ an executive director of the Office of Proprietary Schools, who shall serve as chief
10 administrative officer. The Board may contract with an outside consultant to serve as the executive
11 director. The compensation of this position shall be fixed by the Board from funds provided by
12 fees deposited in the Commercial Education Fund.

13 (b) The Board may hire other employees as it deems necessary to carry out the provisions
14 of this Chapter. The compensation of the staff members hired by the Board shall be fixed by the
15 Board upon recommendation of the executive director of the Office of Proprietary Schools.

16 (c) Each year, at a time designated by the Board, the executive director of the Office of
17 Proprietary Schools shall submit a written report to the Board and the State Board of Community
18 Colleges containing the following information:

19 (1) The number of schools receiving initial licenses during the previous year.

20 (2) A list of all licensed proprietary schools operating in the State.

21 (3) Any school closures during the previous year, including a complete report of
22 actions concerning any catastrophic closures.

23 (4) Any complaints received and the resulting decisions or actions on the
24 complaints.

25 (5) The total fees collected.

26 (6) The balances of the Commercial Education Fund and the Student Protection
27 Fund.

28 (7) A recommendation for the annual projected operating budget.

29 (8) If applicable, a recommendation for an adjustment to the catastrophic loss
30 amount or cap amount for the Student Protection Fund.

31 **"§ 115F-8. Authority to establish and collect fees; Commercial Education Fund; refund of**
32 **fees.**

33 (a) The Board shall establish reasonable fees for applications, initial licensure, license
34 renewal, and inspections performed of proprietary schools pursuant to this Chapter in accordance
35 with Article 2A of Chapter 150B of the General Statutes. All fees and other moneys collected and
36 received by the Board shall be used for the purposes of implementing this Chapter. In no case
37 shall any salary, expense, or other obligation of the Board be charged against the General Fund.

38 (b) There is established the Commercial Education Fund as a special fund consisting of
39 fees collected pursuant to this Chapter. Moneys in the Fund shall be used under the supervision
40 and direction of the Board for the administration of this Chapter.

41 (c) No fee shall be refunded in the event an application is rejected or if a license is
42 suspended or revoked.

43 **"§ 115F-9. License required; application for license; school bulletins; requirements for**
44 **issuance of license; license restricted to courses indicated; supplementary**
45 **applications.**

46 (a) No person shall operate, conduct, or maintain or offer to operate in this State a
47 proprietary school unless a license is first secured from the Board granted in accordance with the
48 provisions of this Chapter and the rules adopted by the Board. The license, when issued, shall
49 constitute the formal acceptance by the Board of the educational programs and facilities of each
50 school approved.

1 (b) If a proprietary school has physical locations and offers classes in more than one
2 county in the State, the school's operation in each county shall constitute a separate proprietary
3 school for the purposes of licensure under this Chapter.

4 (c) Application for a license shall be filed in the manner and upon the forms prescribed
5 and furnished by the Board for that purpose. The application shall be signed by the applicant and
6 properly verified and shall contain the following information as may apply to the particular
7 proprietary school for which a license is sought:

8 (1) The title or name of the school or classes and the names and addresses of the
9 owners and of the controlling officers of the school.

10 (2) The general field of instruction.

11 (3) The place or places where the instruction shall be given.

12 (4) A specific listing of the equipment available for instruction in each field.

13 (5) The qualifications of instructors and supervisors.

14 (6) Financial resources available to equip and to maintain the school or classes.

15 (7) A copy of the current bulletin or catalog of the school, which shall be in
16 published form and certified by an authorized official of the school as being
17 current, true, and correct in content and policy. The school bulletin shall contain
18 the following information:

19 a. Identifying data, such as volume number and date of publication.

20 b. Names of the school and its governing body, officials, and faculty.

21 c. A calendar of the school showing legal holidays, beginning and ending
22 dates of each quarter, term, or semester, and other important dates.

23 d. Policy and regulations relative to leave, absences, class cuts, make-up
24 work, tardiness, and interruptions for unsatisfactory attendance.

25 e. Policy and regulations on enrollment with respect to enrollment dates
26 and specific entrance requirements for each course.

27 f. Policy and regulations relative to standards of progress required of the
28 student by the school. This policy must define (i) the grading system of
29 the school, (ii) the minimum grades considered satisfactory, (iii)
30 conditions for interruption for unsatisfactory grades or progress and
31 description of the probationary period, if any, allowed by the school,
32 and (iv) conditions of reentrance for those students dismissed for
33 unsatisfactory progress. A statement shall be made regarding progress
34 records kept by the school and furnished to the student.

35 g. Policy and regulations relating to student conduct and conditions for
36 dismissal for unsatisfactory conduct.

37 h. Detailed schedule of fees; charges for tuition, books, supplies, tools,
38 student activities, laboratory fees, service charges, rentals, and deposits;
39 and all other charges.

40 i. Policy and regulations relative to the refund of the unused portion of
41 tuition, fees, and other charges in the event the student does not enter or
42 withdraws from a course or a course is discontinued. The policy and
43 regulations shall provide for, at a minimum, a full refund if a student
44 withdraws before the first day of class or the school cancels the class
45 and a seventy-five percent (75%) refund if the student withdraws within
46 the first twenty-five percent (25%) of the period of enrollment for which
47 the student was charged.

48 j. A description of the available space, facilities, and equipment.

49 k. A course outline for each course for which approval is requested,
50 showing:

51 1. Subjects or units in the course.

- 1 2. Type of skill to be learned.
- 2 3. Approximate time in clock hours, credit hours, or credit hours
- 3 equivalent, as appropriate, to be spent on each subject or unit.
- 4 l. Policy and regulations for granting credit for previous educational
- 5 training.
- 6 (8) Any additional information as the Board may deem necessary to enable it to
- 7 determine the adequacy of the program of instruction and whether the standards
- 8 for licensure adopted by the Board have been met.
- 9 (d) After reasonable investigation and consideration on the part of the Board, a license
- 10 shall be granted to the proprietary school when it is shown to the satisfaction of the Board that the
- 11 applicant, school, and programs of study or courses are found to have met at least the following
- 12 criteria:
- 13 (1) Courses, curriculum, and instruction are consistent in quality, content, and
- 14 length with similar courses in public schools and other private schools in the
- 15 State, with recognized accepted standards.
- 16 (2) Adequate space, equipment, instructional material, and instructor personnel are
- 17 available to students to provide training of good quality.
- 18 (3) Education and experience qualifications of the director, administrators, and
- 19 instructors are adequate.
- 20 (4) The school maintains a written record of the previous education and training of
- 21 the student.
- 22 (5) A copy of the course outline, schedule of tuition, fees and other charges,
- 23 regulations pertaining to absences, grading policy, and the rules of operation
- 24 and conduct shall be furnished to the student upon enrollment.
- 25 (6) Upon completion of training, the student is given a certificate or diploma by the
- 26 school for work in the approved course or subjects that indicates the training
- 27 was satisfactorily completed.
- 28 (7) Adequate records as prescribed by the Board are kept to show student
- 29 attendance, progress, or grades, and that satisfactory standards relating to
- 30 attendance, progress, and conduct are enforced.
- 31 (8) The school complies with all local, city, county, municipal, State, and federal
- 32 laws and regulations, including fire codes and building and sanitation codes.
- 33 The Board may require evidence of compliance as is deemed necessary.
- 34 (9) The school is financially sound and capable of fulfilling its commitments for
- 35 training.
- 36 (10) The school does not exceed its enrollment limitation as established by the
- 37 Board.
- 38 (11) The school does not utilize advertising of any type which is erroneous or
- 39 misleading, either by actual statement, omission, or intimation.
- 40 (12) The school's administrators, directors, owners, and instructors are of good
- 41 reputation and character.
- 42 (13) Any additional criteria as may be deemed necessary by the Board.
- 43 (e) Any license issued to a proprietary school shall be restricted to the programs of
- 44 instruction or courses or subjects specifically indicated in the application for a license. The holder
- 45 of a license shall present a supplementary application as may be directed by the Board for
- 46 approval of additional programs of instruction, courses, or subjects in which it seeks to offer
- 47 instruction during the effective period of the license.
- 48 **§ 115F-10. Duration and renewal of licenses; notice of changes, including ownership and**
- 49 **administration; license not transferable.**
- 50 (a) All licenses issued to a proprietary school by the Board shall expire on June 30 each
- 51 year.

1 **(b)** Unless otherwise prescribed by the Board, licenses shall be renewable annually on July
2 1 of each year if all of the following conditions are met:

3 **(1)** An application for the renewal of the license has been filed in the form and
4 manner prescribed by the Board.

5 **(2)** The renewal fee has been paid in full.

6 **(3)** The school and its courses, facilities, faculty, and all other operations are found
7 to meet the criteria set forth in the requirements for a school to secure an initial
8 license under this Chapter.

9 **(c)** After a license is granted to any proprietary school by the Board on the basis of its
10 application, the school shall notify the Board immediately of any material changes to the operation
11 of the school or its courses or programs as set forth in the application, including changes in the
12 ownership, administration, location, faculty, or the instructional program or other changes as may
13 affect significantly the course of instruction offered.

14 **(d)** In the event of the sale or transfer of a proprietary school, a license granted to the
15 original owner or operators of a proprietary school shall not be transferable to subsequent owners
16 or operators. The Board may issue a 90-day, temporary operating license to a proprietary school
17 upon its sale or transfer if the school held a valid, current license prior to the sale or transfer and if
18 the Board finds that the school is likely to qualify after the sale or transfer for a license under this
19 Chapter.

20 **"§ 115F-11. Suspension, revocation, or refusal of license; notice and hearing; judicial**
21 **review; grounds.**

22 **(a)** A refusal to issue, refusal to renew, suspension of, or revocation of a license by the
23 Board for a proprietary school under this section shall be subject to the provisions of Article 3 of
24 Chapter 150B of the General Statutes.

25 **(b)** A decision by the Board under this section to refuse to grant, refuse to renew, suspend,
26 or revoke a license for a proprietary school shall be subject to judicial review in accordance with
27 Article 4 of Chapter 150B of the General Statutes.

28 **(c)** The Board shall have the power to refuse to issue or renew any license and to suspend
29 or revoke any license issued to a proprietary school if the Board finds that an applicant for a
30 proprietary school or the holder of a proprietary school license has done one or more of the
31 following:

32 **(1)** Violated any of the provisions of this Chapter or any of the rules promulgated
33 by the Board for the administration of this Chapter.

34 **(2)** Knowingly presented to the Board false or misleading information relating to
35 approval or renewal of a license.

36 **(3)** Failed or refused to permit authorized representatives of the Board to inspect
37 the school or refused to make available to them at any time upon request full
38 information pertaining to matters within the purview of the Board under the
39 provisions of this Chapter.

40 **(4)** Perpetrated or committed fraud or deceit in advertising the school or in
41 presenting to the prospective students written or oral information relating to the
42 school, to employment opportunities, or to opportunities for enrollment in other
43 schools upon completion of the instruction offered in the school.

44 **(5)** Pled guilty, entered a plea of nolo contendere, or been found guilty of a crime
45 involving moral turpitude by a judge or jury in any state or federal court.

46 **(6)** Failed to provide or maintain premises, equipment, or conditions in a safe and
47 sanitary manner in accordance with such standards of the State or any of its
48 political subdivisions as are applicable to the premises and equipment.

49 **(7)** During the licensure period, employed teachers, supervisors, or administrators
50 who had not been approved by the Board.

- 1 (8) During the licensure period, failed to provide and maintain adequate premises,
2 equipment, materials, or supplies or exceeded the maximum enrollment for
3 which the school or class was licensed.
- 4 (9) During the licensure period, failed to provide and maintain adequate standards
5 of instruction or an adequate and qualified administrative, supervisory, or
6 teaching staff.
- 7 (10) Failed to pay license or renewal fees.
- 8 (11) Failed to provide a required bond or bond alternative.
- 9 (12) Failed to pay assessments into the Student Protection Fund.

10 **"§ 115F-12. Bonds required.**

11 (a) An applicant for a proprietary school license shall comply with the bond requirements
12 set forth in this section. The bond shall cover the potential loss by students of the proprietary
13 school of prepaid tuition and other payments made by them to a school licensed under this Chapter
14 by reason of the school ceasing to operate for any reason, including bankruptcy, foreclosure, or the
15 suspension, revocation, or nonrenewal of a school's license.

16 (b) An applicant for a proprietary school license shall file a bond with the Board executed
17 by the applicant as a principal and by a bonding company authorized to do business in this State.
18 The bond shall be payable to the Board, shall be conditioned on fulfillment of the school's
19 obligations, and shall remain in effect until cancelled by the bonding company. The bonding
20 company may cancel the bond upon 30 days' written notice to the Board.

21 (c) The application for a proprietary school initial license or renewal shall set forth the
22 calculations made by the applicant to determine the amount of bond required with the application.
23 The required amount shall be determined as follows:

24 (1) Initial licensure. – For an applicant for initial licensure of a school, the bond
25 amount shall be the amount determined by the Board that is adequate to provide
26 indemnification to any student or student's parent or guardian who has suffered
27 a loss of tuition, fees, or any other instructional-related expenses paid to the
28 school. A bond amount shall be at least twenty-five thousand dollars (\$25,000).

29 (2) First five license renewals. – For the first five license renewal applications of a
30 school, the bond shall be in an amount equal to the greatest amount of unearned
31 paid tuition in the school's possession at any time during the prior fiscal year.
32 The bond amount shall be evaluated by the school quarterly and reported to the
33 Board. A quarterly evaluation requiring an increase of five percent (5%) or
34 more in the amount of the bond held by the school shall require an immediate
35 increase in the bond amount.

36 (3) Renewal for schools licensed at least six continuous years. – A guaranty bond
37 shall be required for license renewal for a school that has been continuously
38 licensed to operate for at least six years in the State, as follows:

39 a. If the balance of the Student Protection Fund is below the catastrophic
40 loss amount, the school shall file a guaranty bond in an amount equal to
41 the maximum amount of prepaid tuition held by the school during the
42 prior fiscal year multiplied by the percentage of the amount the fund is
43 deficient.

44 b. If the school held prepaid tuition in excess of the catastrophic loss
45 amount during the prior fiscal year, in addition to any bond amount
46 required by sub-subdivision a. of this subdivision, the school shall file a
47 guaranty bond for the difference between the prepaid tuition amount
48 held in the previous fiscal year and the catastrophic loss amount.

49 Notwithstanding the amounts set forth in this subsection, the Board may require any licensed
50 school to increase its bond if it determines the increase is necessary to provide indemnification to

1 any student or a student's parent or legal guardian who may suffer a loss of tuition, fees, or any
 2 other instructional-related expenses paid to the school.

3 (d) An applicant for a proprietary school license who is unable to secure a bond may seek a
 4 waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives
 5 set forth in this subsection. With the approval of the Board, an applicant may obtain in lieu of a
 6 bond any of the following:

7 (1) An assignment of a savings account in an amount equal to the bond required (i)
 8 that is in a form acceptable to the Board, (ii) that is executed by the applicant,
 9 (iii) that is executed by a state or federal savings and loan association, state
 10 bank, or national bank that is doing business in North Carolina and whose
 11 accounts are insured by a federal depositors corporation, and (iv) for which
 12 access to the account in favor of the State is subject to the same conditions as
 13 for a bond in subsection (c) of this section.

14 (2) A certificate of deposit (i) that is executed by a state or federal savings and loan
 15 association, state bank, or national bank that is doing business in North
 16 Carolina and whose accounts are insured by a federal depositors corporation,
 17 (ii) that is payable to North Carolina, (iii) that, if a negotiable certificate of
 18 deposit, is unrestrictedly endorsed to the Board or, if a nonnegotiable certificate
 19 of deposit, is assigned to the Board in a form satisfactory to the Board, and (iv)
 20 for which access to the certificate of deposit in favor of the State is subject to
 21 the same conditions as for a bond in subsection (c) of this section.

22 **"§ 115F-13. Student Protection Fund; payments; assessments.**

23 (a) The Student Protection Fund is established in the Department of State Treasurer as a
 24 statewide fee-supported fund collected pursuant to this section. Interest accruing to the Student
 25 Protection Fund shall be credited to the Fund. The Board shall administer the Student Protection
 26 Fund in accordance with this section. The purpose of the Student Protection Fund is to compensate
 27 students enrolled in a proprietary school licensed under this Chapter who have suffered a loss of
 28 tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure
 29 of the school to offer or complete student instruction, academic services, or other goods and
 30 services related to course enrollment if the school ceases to operate for any reason, including
 31 bankruptcy, foreclosure, or the suspension, revocation, or nonrenewal of a school's license.

32 (b) Prior to its first year of operation in the State, each proprietary school shall pay an
 33 initial amount of one thousand two hundred fifty dollars (\$1,250) into the Student Protection
 34 Fund.

35 (c) Each proprietary school operating in the State shall pay annually into the Student
 36 Protection Fund an amount based on its annual gross tuition revenue generated in the State as
 37 follows:

<u>Annual Gross Tuition Revenue</u>	<u>Amount of Assessment</u>
<u>\$1.00 – \$25,000</u>	<u>\$200.00</u>
<u>\$25,001 – \$50,000</u>	<u>\$250.00</u>
<u>\$50,001 – \$100,000</u>	<u>\$300.00</u>
<u>\$100,001 – \$200,000</u>	<u>\$400.00</u>
<u>\$200,001 – \$300,000</u>	<u>\$500.00</u>
<u>\$300,001 – \$400,000</u>	<u>\$600.00</u>
<u>\$400,001 – \$500,000</u>	<u>\$700.00</u>
<u>\$500,001 – \$750,000</u>	<u>\$1,000</u>
<u>\$750,001 – \$1,000,000</u>	<u>\$1,250</u>
<u>\$1,000,001 – \$1,500,000</u>	<u>\$1,500</u>
<u>\$1,500,001 – \$2,000,000</u>	<u>\$2,000</u>
<u>Greater than \$2,000,000</u>	<u>\$2,000 plus one-twentieth of one percent</u>

1 (.05%) of annual gross tuition revenue over
2 \$2,000,000.

3 (d) If the Student Protection Fund balance is equal to or exceeds the fund cap amount, the
4 Board shall suspend payments into the Fund for schools that have been continuously licensed in
5 the State for more than eight years. The Board shall require schools to resume payments into the
6 Student Protection Fund if the balance of the Fund is less than the catastrophic loss amount.

7 (e) If claims against the Student Protection Fund exceed the catastrophic loss amount, the
8 Board may assess additional fees to the extent necessary to compensate students qualified for
9 repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of
10 the amount of the annual revenue payment required by subsection (c) of this section. If the amount
11 of the catastrophic assessment is insufficient to cover qualified claims, the Board shall develop a
12 method of allocating funds among claims.

13 (f) The full and timely payment into the Student Protection Fund pursuant to this section is
14 a condition of licensure.

15 (g) No payment to the Student Protection Fund shall be refunded in the event that a
16 school's license application is rejected or a school's license is suspended or revoked.

17 (h) A student or the student's parent or guardian who has suffered a loss of tuition, fees, or
18 any other instructional-related expenses paid to a proprietary school licensed under this Chapter by
19 reason of the school ceasing to operate for any reason, including bankruptcy, foreclosure, or the
20 suspension, revocation, or nonrenewal of a school's license may qualify for repayments under the
21 Student Protection Fund. The Board first must issue repayment from the bonds issued under
22 G.S. 115F-12. If the Student Protection Fund is insufficient to cover the qualified claims, the
23 Board shall develop a method of allocating funds among claims.

24 (i) The Board shall adopt rules for the implementation of this section.

25 **"§ 115F-14. Contracts with unlicensed schools and evidences of indebtedness made null and**
26 **void.**

27 All contracts entered into by a proprietary school with students or prospective students and all
28 promissory notes or other evidence of indebtedness taken in lieu of cash payments by a proprietary
29 school shall be null and void unless the school is duly licensed as required by this Chapter.

30 **"§ 115F-15. Operating school without license or bond; misdemeanor.**

31 Any person, or a member of any association of persons or an officer of any corporation, who
32 opens and operates a proprietary school without first obtaining the license required by this
33 Chapter, executing the bond required under G.S. 115F-12, and paying the assessments into the
34 Student Protection Fund under G.S. 115F-13 shall be guilty of a Class 3 misdemeanor. Each day
35 the school continues to be open and operated shall constitute a separate offense.

36 **"§ 115F-16. Enforcement; injunctive relief; civil penalties; disciplinary costs.**

37 (a) The Board or the Board's authorized representatives may make application to superior
38 court for an order enjoining a violation of this Chapter. Upon a showing by the Board that a person
39 has violated or is about to violate this Chapter, the court may grant an injunction or restraining
40 order or take any further action it deems appropriate. The court is empowered to grant the
41 requested relief regardless of whether criminal prosecution or other actions have been or may be
42 instituted as a result of the violation. Actions under this section shall be brought in the county
43 where the defendant resides or maintains his or her principal place of business or where the
44 alleged acts occurred.

45 (b) The Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for
46 the violation of any section of this Chapter or the violation of any rules adopted by the Board to
47 implement this Chapter. The continuation of the same act for which the penalty is imposed shall
48 not be the basis for an additional penalty unless the penalty is imposed against the same party who
49 has repeated the same act for which the discipline has previously been imposed. The clear
50 proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and
51 Forfeiture Fund in accordance with G.S. 115C-457.2. The Board shall establish a schedule of civil

1 penalties for violations of this Chapter. The assessment of civil penalties shall be subject to the
2 provisions of Article 3 of Chapter 150B of the General Statutes.

3 (c) Before imposing and assessing a civil penalty under this section, the Board shall
4 consider at least the following factors:

5 (1) The nature, gravity, and persistence of the particular violation.

6 (2) The appropriateness of the imposition of a civil penalty when considered alone
7 or in combination with other punishment.

8 (3) Whether the violation was willful and malicious.

9 (4) Any other factors that would tend to mitigate or aggravate the violations found
10 to exist.

11 (d) The Board may assess the costs of enforcement actions taken under this Chapter,
12 including reasonable attorneys' fees, and transcriptions of a disciplinary hearing held by the Board
13 or the Office of Administrative Hearings, to include the recording of the hearing by a court
14 reporter and transcription of the proceeding against any person found to be in violation of this
15 Chapter or rules adopted by the Board."

16 **SECTION 3.** G.S. 86A-22(7)a. reads as rewritten:

17 "(7) a. Each school shall provide a guaranty bond unless the school has already
18 provided a bond or an alternative to a bond under
19 ~~G.S. 115D-95.~~G.S. 115F-12.

20 The North Carolina State Board of Barber Examiners may revoke
21 the approval of a school that fails to maintain a bond or an alternative to
22 a bond pursuant to this subdivision or ~~G.S. 115D-95.~~G.S. 115F-12."

23 **SECTION 4.** G.S. 88B-17(a) reads as rewritten:

24 "(a) Each private cosmetic art school shall provide a guaranty bond unless the school has
25 already provided a bond or an alternative to a bond under ~~G.S. 115D-95.~~G.S. 115F-12. The Board
26 may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to
27 maintain a bond or an alternative to a bond pursuant to this section or
28 ~~G.S. 115D-95.~~G.S. 115F-12."

29 **SECTION 5.** G.S. 90-171.55(b)(1) reads as rewritten:

30 "(b) (1) Each nurses aide training program, except for those operated by (i) institutions
31 under the Board of Governors of The University of North Carolina, (ii)
32 institutions of the North Carolina Community College System, (iii) public high
33 schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall
34 provide a guaranty bond unless the program has already provided a bond or an
35 alternative to a bond under ~~G.S. 115D-95.~~G.S. 115F-12. The Board of Nursing
36 may revoke the approval of a program that fails to maintain a bond or an
37 alternative to a bond pursuant to this subsection or
38 ~~G.S. 115D-95.~~G.S. 115F-12."

39 **SECTION 6.** G.S. 93A-32(2) reads as rewritten:

40 "(2) "Private real estate school" means any real estate educational entity which is
41 privately owned and operated by an individual, partnership, corporation, limited
42 liability company, or association, and which conducts, for a profit or tuition
43 charge, real estate broker prelicensing or postlicensing courses prescribed by
44 G.S. 93A-4(a) or (a1), provided that a proprietary business or trade school
45 licensed by the ~~State-North Carolina Board of Community Colleges~~Proprietary
46 Schools under ~~G.S. 115D-90.~~G.S. 115F-9 to conduct courses other than those
47 real estate courses described herein shall not be considered to be a private real
48 estate school."

49 **SECTION 7.** G.S. 116-15 reads as rewritten:

50 **"§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.**

1 (a1) The General Assembly of North Carolina in recognition of the importance of higher
2 education and of the particular significance attached to the personal credentials accessible through
3 higher education and in consonance with statutory law of this State making unlawful any "unfair
4 or deceptive acts or practices in the conduct of any trade or commerce," hereby declares it the
5 policy of this State that all institutions conducting post-secondary degree activity in this State that
6 are not subject to Chapter ~~115 or 115D~~ 115, 115D, or 115F of the General Statutes, nor some other
7 section of Chapter 116 of the General Statutes shall be subject to licensure under this section
8 except as the institution or a particular activity of the institution may be exempt from licensure by
9 one or another provision of this section.

10 ...

11 (f1) (1) A guaranty bond is required for each institution that is licensed. The Board may
12 revoke the license of an institution that fails to maintain a bond pursuant to this
13 subsection.

14 If the institution has provided a bond pursuant to
15 ~~G.S. 115D-95~~, G.S. 115F-12, the Board may waive the bond requirement under
16 this subsection. The Board may not waive the bond requirement under this
17 subsection if the applicant has provided an alternative to a guaranty bond under
18 ~~G.S. 115D-95(e)~~, G.S. 115F-12(d).

19"

20 **SECTION 8.** G.S. 126-5(c2)(4) reads as rewritten:

21 "(4) Employees of the Office of Proprietary Schools whose salaries are fixed by the
22 ~~State~~ North Carolina Board of Proprietary Schools in accordance with the
23 provisions of ~~G.S. 115D-89.2~~, G.S. 115F-7."

24 **SECTION 9.** Notwithstanding G.S. 115F-5, as enacted by this act, and Article 8 of
25 Chapter 115D of the General Statutes, the members serving on the State Board of Proprietary
26 Schools as of the date this act becomes law who were appointed pursuant to G.S. 115D-89.1 shall
27 (i) serve the remainder of their terms as members of the North Carolina Board of Proprietary
28 Schools established pursuant to Chapter 115F of the General Statutes, as enacted by this act, and
29 (ii) assume the advisory duties and responsibilities of the State Board of Proprietary Schools under
30 Article 8 of Chapter 115D of the General Statutes in regard to any proprietary school operating in
31 this State under a license approved on or before the date this act becomes law and June 30, 2017.
32 As the terms of the members serving on the North Carolina Board of Proprietary Schools in
33 accordance with this section expire, or when a vacancy occurs prior to the expiration of a term,
34 members on the Board shall be appointed in accordance with G.S. 115F-5, as enacted by this act.

35 **SECTION 10.** The North Carolina Board of Proprietary Schools may enter into an
36 agreement with the State Board of Community Colleges to provide that the Community Colleges
37 System Office act as the fiscal agent for the North Carolina Board of Proprietary Schools and for
38 the Office of Proprietary Schools for the purpose of administering the Commercial Education
39 Fund established under G.S. 115F-8, formerly administered under G.S. 115D-92, and the Student
40 Protection Fund established under G.S. 115F-13, formerly administered under G.S. 115D-95.1,
41 until such time those funds may be established in accounts with the Department of State Treasurer
42 under the sole supervision and direction of the North Carolina Board of Proprietary Schools in
43 accordance with Chapter 115F of the General Statutes.

44 **SECTION 11.** Section 1 of this act becomes effective July 1, 2017. The remainder of
45 this act is effective when this act becomes law and applies to any person applying for an initial
46 license or the renewal of a license for a proprietary school on or after that date.