

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 725

Proposed Committee Substitute PCS1627

State Personnel and State Government Committee Substitute Adopted 5/13/91

Short Title: Private Investigations Act.

(Public)

Sponsors:

Referred to:

April 22, 1991

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE PRIVATE INVESTIGATIONS REGULATORY ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

**CHAPTER 74E.**

**"PRIVATE INVESTIGATIONS REGULATORY ACT.**

**"ARTICLE 1.**

**"PRIVATE INVESTIGATIONS REGULATORY BOARD.**

**"§ 74E-1. Title.**

This Chapter may be cited as the Private Investigations Regulatory Act. The purpose of this act is to insure a high level of integrity, competency, professionalism, and performance for the private investigator and counterintelligence businesses and to repeal those portions of all previous acts affecting those businesses.

**"§ 74E-2. License required.**

(a) Except as provided in subsection (b) of this section, effective January 1, 1992, no private person, firm, association, or corporation shall engage in, perform any business as, or in any way represent or hold itself out as engaging in a private investigative or counterintelligence business in this State as defined in G.S. 74E-3, without having first complied with the provisions of this Chapter. Compliance with the

1 licensing requirements of this Chapter does not relieve any person, firm, association, or  
2 corporation from compliance with any other licensing law.

3 (b) An individual in possession of a valid private investigator business license,  
4 associate private investigator permit, counterintelligence license or counterintelligence  
5 permit issued prior to the date of the adoption of this Chapter is not subject to forfeiture  
6 of that license or permit by virtue of the enactment of this Chapter, but remains subject  
7 to suspension, denial, expiration, or revocation in the same manner as all other licensees  
8 under this Chapter in those areas.

9 (c) The Private Investigations Regulatory Board may issue an associate private  
10 investigator or counterintelligence license provided that the applicant works under the  
11 supervision of a licensee and is otherwise qualified to hold such a permit.

12 **"§ 74E-3. Private investigation and counterintelligence business defined.**

13 (a) As used in this Chapter, the term 'private investigation business' means and  
14 includes the following:

15 (1) The terms 'private investigator' and 'private detective' are synonymous  
16 and mean any person who accepts payment of any kind for performing  
17 the services defined as those performed by a private investigator or  
18 private detective, or any other person who agrees to make or makes  
19 inquiries or investigations on a contractual basis concerning the  
20 following subjects:

21 a. Crimes or wrongs done or threatened against the United States  
22 or any state or territory of the United States;

23 b. The identity, habits, conduct, business, occupation, honesty,  
24 integrity, credibility, knowledge, trustworthiness, efficiency,  
25 loyalty, activity, movement, affiliation, associations,  
26 transactions, acts, reputation, character, or location of any  
27 person;

28 c. The location, disposition, or recovery of lost or stolen property;

29 d. The cause or responsibility for fire, libel loss, accident, damage,  
30 or injury to person or to property; or

31 e. The obtaining of evidence to be used before any court, board,  
32 officer, or investigative committee;

33 or who accepts employment to furnish protection of individuals from  
34 serious bodily harm or death; or who accepts employment to repossess  
35 collateral or property for third parties.

36 (b) 'Private investigations business' does not mean:

37 (1) Licensed insurance adjusters legally employed as such, who do not  
38 engage in other investigative activities unconnected with adjustment of  
39 claims against an insurance company.

40 (2) An officer or employee of the United States, this State or any political  
41 subdivision of either, while such officer or employee is engaged in the  
42 performance of his official duties within the course and scope of his  
43 employment with the government entity.

- 1           (3) A person engaged exclusively in the business of obtaining and  
2 furnishing information as to the financial rating or creditworthiness of  
3 persons and a person who provides consumer credit reports in  
4 connection with:  
5           a. Credit transactions involving the consumer on whom the  
6 information is to be furnished and involving the extensions of  
7 credit to the consumer;  
8           b. Credit information for employment purposes;  
9           c. Credit information for the underwriting of insurance involving  
10 the consumer;  
11           d. Credit information in connection with a determination of the  
12 consumer's eligibility for a license or other benefit granted by a  
13 governmental consumer's eligibility for a license or other  
14 benefit granted by a governmental instrumentality required by  
15 law to consider an applicant's financial responsibility; or  
16           e. A legitimate business need for the information in connection  
17 with a business transaction involving the consumer.  
18           (4) An attorney-at-law licensed to practice in the State while engaged in  
19 such practice and the paralegals or staff investigators employed by the  
20 attorney.  
21           (5) The legal owner or lienholder or his employees, of personal property  
22 which has been sold in a transaction in which a security interest in  
23 personal property has been created to secure the sales transaction, who  
24 engage in repossession of the property.  
25           (6) Employees of a person licensed under this Chapter who are employed  
26 exclusively as undercover agents. Undercover agent means an  
27 individual hired to perform a specific, time limited, undercover  
28 assignment for a licensee and, while performing the assignment, to act  
29 as an undercover operative, employee, or independent contractor of a  
30 licensee under the supervision of a licensee.  
31           (7) A person who is engaged in an alarm systems business subject to the  
32 provisions of Chapter 74C of the General Statutes.  
33           (8) A person who obtains or verifies information regarding applicants for  
34 employment, with the knowledge and consent of the applicant, and  
35 who is:  
36           a. Engaged in business as a private personnel service as defined in  
37 G.S. 95-47.1, or engaged in business as a private employer fee  
38 pay personnel service;  
39           b. Engaged in the business of obtaining or verifying information  
40 regarding applicants for employment; or  
41           c. An employer with whom the applicant has applied for  
42 employment.

- 1           (9) A person who conducts efficiency studies. An efficiency study is an  
2 analysis of an employer's business made at the request of the  
3 employer, to determine one or more of the following:  
4           a. The most efficient procedures by which an employee of the  
5 business can perform the employer's assigned duties;  
6           b. The adequacy of an employee's performance of the employer's  
7 assigned duties that require interaction with a client or customer  
8 of the business. If a person making an efficiency study  
9 observes an instance of theft or another illegal act committed by  
10 an employee of the business, the person may report the instance  
11 to the employer without violating G.S. 74E-3, but may not  
12 make a security survey or inspection.
- 13           (10) Research laboratories and consultants who analyze, test, or in any way  
14 apply their expertise to interpreting, evaluating, or analyzing facts or  
15 evidence submitted by another in order to determine the cause or effect  
16 of physical or psychological occurrences, and give their opinions and  
17 findings to the requesting source or to a designee of the requestor.
- 18           (11) A person who works regularly and exclusively as an employee of an  
19 employer in connection with the business affairs of that employer only.
- 20           (12) An employee of a security department of a private business that  
21 conducts investigations exclusively on matters internal to the business.
- 22           (c) As used in this Chapter, the term counterintelligence business means any  
23 person, firm, association, or corporation which, for a fee or other valuable  
24 consideration, discovers, locates, disables, disengages or attempts to do so, by  
25 electronic, electrical, or mechanical means, any listening or other monitoring equipment  
26 surreptitiously placed to gather information concerning any individual, firm,  
27 association, or corporation. Provided that licensed private investigators may conduct  
28 limited nontechnically assisted physical searches for such devices, but may not advertise  
29 nor hold themselves out to offer counterintelligence services unless they are also  
30 licensed in counterintelligence.
- 31 **§ 74E-4. Private investigations board; members; terms; vacancies;**  
32 **compensations; meetings.**
- 33           (a) The Private Investigations Regulatory Board is established in the Office of  
34 the Attorney General to administer the licensing of and to set educational and training  
35 requirements for persons, firms, and corporations engaged in a private investigation or  
36 counterintelligence business.
- 37           (b) The Private Investigations Regulatory Board consists of five members who  
38 have the powers and responsibilities set forth in this Chapter. The members of the  
39 Private Investigations Regulatory Board are appointed as follows:
- 40           (1) One person appointed by the Attorney General or his designated  
41 representative;  
42           (2) One person appointed by the Governor;  
43           (3) One person appointed by the General Assembly upon recommendation  
44 of the President Pro Tempore of the Senate;

1           (4) One person appointed by the General Assembly upon the  
2           recommendation of the Speaker of the House of Representatives;

3           (5) One person appointed by the Board of Directors of the North Carolina  
4           Association of Private Investigators from among its members.

5           (c) All appointments by the General Assembly are subject to the provisions of  
6 G.S. 120-121. Vacancies in the positions filled by appointments by the General  
7 Assembly are filled pursuant to G.S. 120-122. Persons appointed by the General  
8 Assembly upon the recommendation of the President Pro Tempore of the Senate and the  
9 Speaker of the House of Representatives shall be licensees under this Chapter; all other  
10 appointees may be licensees. Board members serve terms of three years. No person  
11 shall serve more than two consecutive terms (six consecutive years) on the Private  
12 Investigations Regulatory Board, including years of service prior and subsequent to July  
13 1, 1991. All appointments must be made by the designated authority within 90 days of  
14 enactment of this Chapter.

15          (d) Vacancies on the Private Investigations Regulatory Board occurring for any  
16 reason shall be filled by the authority making the original appointment of the person  
17 causing the vacancy.

18          (e) Each member of the Private Investigations Regulatory Board, before  
19 assuming the duties of the office, shall take an oath for the faithful performance of his  
20 duties. A Board member may be removed at the pleasure of the authority making the  
21 original appointment or by the Board, for misconduct, incompetence, or neglect of duty.

22          (f) Members of the Private Investigations Regulatory Board who are State  
23 officers or employees shall receive no per diem compensation for serving on the Board,  
24 but shall be reimbursed for their expenses in accordance with G.S. 136-6. Members of  
25 the Board who are full-time salaried public officers or employees other than State  
26 officers or employees shall receive no per diem compensation for serving on the Board,  
27 but shall be reimbursed for their expenses in accordance with G.S. 138-6 in the same  
28 manner as State officers or employees. All other Board members shall receive per diem  
29 compensation and reimbursement in accordance with G.S. 93B-5.

30          (g) The Private Investigations Regulatory Board shall elect a chairperson, vice-  
31 chairperson, and other officers and committee chairpersons from among its members as  
32 the Board deems necessary and desirable at its first meeting after July 1 of each year.  
33 The chairperson and vice-chairperson shall be selected by the members of the Board for  
34 a term of one year and shall be eligible for reelection. The Board shall meet at the call  
35 of the chairperson or a majority of the members of the Board at such time, date, and  
36 location as may be decided upon by a majority of the Board, but not less than monthly  
37 in Raleigh.

38          (h) All decisions heretofore made by the Private Protective Services Board,  
39 established under Chapter 74C, shall remain in full force and effect unless and until  
40 repealed or suspended by action of the Private Investigations Regulatory Board  
41 established in this Chapter.

42 **"§ 74E-5. Powers of the Private Investigations Regulatory Board.**

43          (a) In addition to the powers conferred upon the Private Investigations  
44 Regulatory Board elsewhere in this Chapter, the Board may:

- 1           (1) Promulgate rules necessary to carry out and administer the provisions  
2 of this Chapter, and may require the submission of reports and  
3 information by licensees under this Chapter so long as those reports  
4 and that information do not violate the confidentiality due the  
5 licensees' clients;
- 6           (2) Establish and require written or oral examinations and training  
7 requirements for applicants for licenses, permits, and registration;
- 8           (3) Conduct investigations regarding alleged violations and make  
9 evaluations as may be necessary to determine if licensees and  
10 associates under this Chapter are complying with the provisions of this  
11 Chapter;
- 12           (4) Adopt and amend bylaws, consistent with law, for its internal  
13 management and control;
- 14           (5) Approve individual applicants to be licensed or registered according to  
15 this Chapter;
- 16           (6) Deny, suspend, or revoke any license, associate permit, or registration  
17 issued under this Chapter to any applicant, licensee, permit holder or  
18 registrant who fails to satisfy the requirements of this Chapter or the  
19 rules established by the Private Investigations Regulatory Board. Any  
20 denial, suspension, or revocation shall be accomplished in accordance  
21 with G.S. 150B;
- 22           (7) Issue subpoenas to compel the attendance of witnesses and the  
23 production of pertinent books, accounts, records, and documents so  
24 long as the confidentiality due the client is not infringed upon. The  
25 district court shall have the power after a hearing to impose  
26 punishment pursuant to Article 2 of Chapter 5A of the General Statutes  
27 for acts occurring in matters pending before the Private Investigations  
28 Regulatory Board that would constitute civil contempt if the acts  
29 occurred in an action pending in court.
- 30           (8) Maintain a roster of licensed private investigators to be consulted on a  
31 rotating basis for assignment as investigators of the backgrounds of  
32 new applicants and the investigation of complaints against  
33 investigators;
- 34           (9) Investigate or cause to be investigated any complaints, allegations, or  
35 suspensions of wrongdoing or violations of this Chapter involving  
36 licensees, applicants, or those suspected of operating in violation of  
37 this or other applicable laws. Those investigations are to be completed  
38 by licensees or other investigators approved by the Private  
39 Investigations Regulatory Board at a rate of remuneration to be set by  
40 the Board.

41           (b) The Board may not initiate an investigation into any offense alleged to have  
42 occurred more than three years prior to the date the complaint is received.

43 **"§ 74E-6. Administrator.**

1       (a) The position of Administrator of the Private Investigations Regulatory Board  
2 is created within the Office of the Attorney General. The Attorney General shall, after  
3 consultation with and approval of the Board, appoint an Administrator and such other  
4 employees as needed to carry out this Chapter. All employees shall serve at the  
5 pleasure of the Board.

6       (b) The Administrator's duties are to administer the directives contained in this  
7 Chapter and the rules promulgated by the Private Investigations Regulatory Board to  
8 implement this Chapter, and to carry out the administrative duties incident to the  
9 functioning of the Board in order to ensure compliance with the law.

10       (c) The Private Investigations Regulatory Board shall determine which positions  
11 will be staffed full-time, part-time or not at all.

12 **"§ 74E-7. Applications for license, general requirements.**

13       (a) Any person, firm, association, or corporation desiring to carry on or engage in  
14 the private investigation or counterintelligence business in this State shall make a  
15 verified application in writing to the Private Investigations Regulatory Board.

16       (b) The application shall include:

17           (1) Full name, home address and post office box, and the actual street  
18 address of the business of the applicant.

19           (2) The name or names under which the applicant intends to do business.

20           (3) A statement as to the general nature of the business in which the  
21 applicant intends to engage.

22           (4) The full name and address of any partners in the business and the  
23 principal officers, directors, and business manager, if any.

24           (5) The names of not less than three unrelated and disinterested persons as  
25 references of whom inquiry can be made as to the character, standing,  
26 and reputation of the persons making the application.

27           (6) Such other information, evidence, statements, or documents as may be  
28 required by the Private Investigations Regulatory Board.

29           (7) Evidence of any investigative experience to be considered by the  
30 Private Investigations Regulatory Board for potential approval or  
31 licensing.

32           (8) For associate private investigator permit applications only, a notarized  
33 statement signed by the applicant and his employer stating that the  
34 associate applicant will at all times work under the supervision of a  
35 licensed private investigator subject to the approval of the associate's  
36 sponsoring employer.

37           (9) Agreement to perform investigative activity at the direction of the  
38 Private Investigations Regulatory Board when such investigations  
39 include the backgrounds of new applicants and complaints against  
40 licensed private investigators and associates only.

41       (c) Qualifying agent. A business entity other than a sole proprietorship shall not  
42 do business under this Chapter unless the business entity has in its employ a designated  
43 resident qualifying agent who meets the requirements for a license issued under this  
44 Chapter and who is, in fact, licensed under this Chapter. Service upon the registered

1 agent appointed by the business entity of any process, notice, or demand required by or  
2 permitted to be served upon the business entity by the Private Investigations Regulatory  
3 Board shall be binding upon the business entity and the licensee. This subsection does  
4 not limit or affect the right to serve any process, notice, or demand required or permitted  
5 by law to be served upon a business entity in any other manner now or hereafter  
6 permitted by law. For the purpose of this Chapter a qualifying agent means an  
7 individual in a management position who is licensed under this Chapter and whose  
8 name and address have been registered with the Administrator.

9 In the event that a qualifying agent upon whom the business entity relies in order to  
10 do business ceases to perform his duties as qualifying agent, the business entity shall  
11 notify the Administrator within 10 working days. The business entity must obtain a  
12 substitute qualifying agent within 30 days after the former qualifying agent ceases to  
13 serve as qualifying agent, unless the Private Investigations Regulatory Board, in its  
14 discretion, extends this period, for good cause, for a period of time not to exceed 90  
15 days.

16 No private investigator or counterintelligence investigator may serve as qualifying  
17 agent for more than one private investigation or counterintelligence business.

18 (d) Applicant requirements. Upon receipt of an application, the Private  
19 Investigations Regulatory Board shall appoint a licensee or other approved investigator  
20 to conduct the background investigation and shall forward to that appointee the  
21 appropriate fee as remuneration for the investigative services and then insure that a  
22 background investigation is conducted during the course of which the applicant shall be  
23 required to show that he meets all requirements for each specific license, permit, or  
24 registration under this Chapter, and the following requirements and qualifications  
25 hereby made prerequisite to obtaining a license:

26 (1) That he be at least 18 years of age.

27 (2) That he be of good moral character and temperate habits. The  
28 following shall be **prima facie** evidence that the applicant does not  
29 have good moral character or temperate habits:

30 a. Conviction by any local, state, federal, or military court of any  
31 felony crime;

32 b. Conviction in any jurisdiction of a crime involving the illegal  
33 use, carrying, or possession of a firearm;

34 c. Conviction of any crime involving the illegal use, possession,  
35 sale, manufacture, distribution, or transportation of a controlled  
36 substance, drug, narcotic;

37 d. Conviction of a crime involving unlawful breaking or entering,  
38 burglary, larceny;

39 e. Conviction of any offense involving sexual molestation or  
40 sexual deviation;

41 f. A history of addiction to alcohol or a nonprescribed drug.

42 Conviction of any crime may be a basis for the denial of any license by the Private  
43 Investigations Regulatory Board, provided that, for purposes of this subsection,



1 'conviction' means the entry of a plea of guilty or no contest, or a verdict rendered in  
2 open court by a judge or jury.

3 (e) All applicants shall appear in person before the Private Investigations  
4 Regulatory Board and shall be subject to questioning in the Board's presence prior to the  
5 approval by the Board of the applicants' license.

6 (f) The Private Investigations Regulatory Board may require the applicant to  
7 demonstrate his qualifications by oral or written examination or by successful  
8 completion of a Board approved training program, or any combination thereof.

9 (g) Upon a finding that the application is in proper form, the completion of the  
10 background investigation, and the completion of any examination required by the  
11 Private Investigations Regulatory Board, the Administrator shall submit to the Board the  
12 application and his recommendations. The Board shall approve or deny the application  
13 for a licensee. Upon approval by the Board, a license will be issued to the applicant  
14 upon payment by the applicant of the initial license fee and the required contribution to  
15 the Private Investigation Recovery Fund, and upon proof of certificate of liability  
16 insurance as required.

17 (h) Upon receipt of an application the Administrator may issue a temporary  
18 permit to the applicant for a period of 60 days. That temporary permit may be renewed  
19 once at the direction of the Administrator if the application has not been before the  
20 Private Investigations Regulatory Board for approval.

21 **"§ 74E-8. Form of license; term; renewal; posting; branch offices; late fee.**

22 (a) A license issued under this Chapter shall be in a form as may be determined  
23 by the Private Investigations Regulatory Board, and shall state:

24 (1) The name of the licensee.

25 (2) The name under which the licensee is to operate.

26 (3) The number, initial licensing date, and expiration date of the license.  
27 The initial license date is that date upon which the license was first  
28 issued and kept continuously in force.

29 (b) The license shall be issued for a term of two years. An associate permit shall  
30 be issued for a term of one year. All licenses must be renewed prior to the expiration of  
31 the term of the license. Following issuance, the license shall at all times be posted in a  
32 conspicuous place in the licensee's principal place of business in the State unless for a  
33 good cause exempted by the Administrator. A license issued under this Chapter is not  
34 assignable.

35 (c) A branch office must be managed by a fully licensed private investigator or  
36 counterintelligence investigator. The license shall be posted at all times in a  
37 conspicuous place in the branch office. Every business covered under the provisions of  
38 this Chapter shall file in writing with the Private Investigations Regulatory Board the  
39 addresses of each of its branch offices, if any, within 10 working days after the  
40 establishment, closing, or changing of the location of any branch office. The  
41 Administrator may, upon the successful completion of an investigation of an  
42 application, issue a temporary branch office license pending approval of the application  
43 by the Board. Telephone forwarding devices do not constitute a branch office.

1       (d) The Private Investigations Regulatory Board is authorized to set and charge  
2 reasonable fees as necessary for licenses, permits and renewals, and to increase or  
3 decrease fees as necessary.

4       (e) A license or associate permit granted under the provisions of this Chapter  
5 may be renewed by the Private Investigations Regulatory Board upon notification of  
6 intended renewal, by the licensee or associate to the Administrator, the payment of the  
7 proper fee, and, in the case of the licensee, if armed, evidence of a policy of liability  
8 insurance as prescribed in G.S. 74E-9. The renewal shall be finalized before the  
9 expiration date of the license or permit. In no event will the renewal be granted if  
10 received more than 60 days after the date of expiration of a license or associate permit.

11       (f) Upon notification of approval of his firearms registration application by the  
12 Private Investigations Regulatory Board, an applicant must furnish evidence within 30  
13 days that he has obtained the necessary liability insurance required by G.S. 74E-9 and  
14 obtain the permit applied for or his application shall lapse.

15       (g) A licensed private investigator may supervise no more than 10 associates at  
16 any given time.

17 **"§ 74E-9. Certificate of liability insurance required.**

18       (a) No firearms registration permit shall be issued under this Chapter unless the  
19 applicant files with the Private Investigations Regulatory Board evidence of a policy of  
20 liability insurance covering his use of weapons. The policy must provide for the  
21 following minimum coverage; three hundred thousand dollars (\$300,000) single limit  
22 coverage as a result of the bodily injury or death of a person, or property damage, as a  
23 result of the negligent act or acts of the principal insured or his agents while they were  
24 operating in the course and scope of his or their employment.

25       (b) An insurance carrier shall have the right to cancel a policy of liability  
26 insurance upon giving a 30-day notice in writing both to the Private Investigations  
27 Regulatory Board and the insured, provided that such cancellation shall not affect any  
28 liability which may have accrued prior to cancellation. The policy of liability shall be  
29 approved by the Board as to the policy's form, execution, and terms.

30       (c) Licensees and permittees not in possession of a firearms registration permit  
31 are not required to obtain a certificate of liability insurance.

32       (d) Every licensee required to obtain a certificate of liability insurance under this  
33 Chapter shall at all times maintain the certificate on file with the Private Investigations  
34 Regulatory Board. The insurance shall be kept in full force and effect, and the armed  
35 registration permit of a licensee who fails to comply shall be automatically suspended.  
36 The armed registration permit shall not be reinstated until an application for the permit,  
37 in the form prescribed by the Board, is filed together with the proper insurance  
38 certificate. No cancellation or refusal to renew by an insurer of a licensee under this  
39 Chapter shall be effective unless the insurer has given the insured licensee notice of the  
40 cancellation or refusal to renew. Upon termination of insurance coverage for the  
41 licensee, the insurer shall give notice to the Administrator of the Board.

42 **"§ 74E-10. Armed private investigator registration permit.**

43       (a) Each employer shall submit and sign an application form for the registration  
44 of each armed employee to the Board. This form shall be accompanied by:

- 1           (1) One or more recent head and shoulders color photographs of the  
2 applicant of acceptable quality for identification, one inch by one inch  
3 in size;  
4           (2) The applicant's nonrefundable registration fee;  
5           (3) A statement signed by a certified trainer that the applicant has  
6 successfully completed the training requirements established by the  
7 Private Investigations Regulatory Board; and  
8           (4) Proof of liability insurance in an amount not less than three hundred  
9 thousand dollars (\$300,000).

10       (b) The employer of each applicant for registration shall retain a copy of the  
11 application in the individual's personnel file in the employer's office.

12       (c) Associate private investigators may be armed only with the written consent of  
13 their sponsors.

14       (d) Registration fees for armed private investigators shall be set by the Board at  
15 the minimum amount necessary to carry out the provisions of this Chapter.

16       (e) After the Administrator receives a complete application for armed private  
17 investigator registration, the Administrator may cause to be made such further  
18 investigation of the applicant as deemed necessary. Any denial of an applicant for  
19 registration by the Administrator shall be subject to review by the Board.

20       (f) All registered armed private investigators shall carry registration cards.

21       Upon termination of employment of an armed private investigator, the employer  
22 shall return the employee's registration card to the Board within 15 days of the  
23 employee's termination.

24       (g) Each applicant for renewal of an armed private investigator registration  
25 identification card of his employer shall complete a form provided by the Board. The  
26 form shall be submitted not more than 90 days nor less than 30 days prior to expiration  
27 of the applicant's current registration and shall be accompanied by:

- 28           (1) Two recent head and shoulders color photographs of the applicant of  
29 acceptable quality for identification, one inch by one inch in size;  
30           (2) The applicant's renewal fee; and  
31           (3) Proof that the applicant has successfully completed the one-day  
32 refresher course including range requalification within 90 days of the  
33 renewal date.

34       The employer of each applicant for a registration renewal shall retain a copy of the  
35 application in the individual's personnel file in the employer's office. Applications for  
36 renewal shall be accompanied by a statement signed by a certified trainer that the  
37 applicant has successfully completed the training requirements established by the  
38 Private Investigations Regulatory Board.

39       (h) Applicants for an armed private investigator registration shall complete a  
40 basic training course for armed private investigators which consists of a minimum of 40  
41 hours of classroom instruction including:

- 42           (1) Legal limitations on the use of handguns and on the powers and  
43 authority of an armed private investigator;

- 1           (2) Familiarity with rules and regulations relating to armed private  
2 investigators;  
3           (3) Range firing procedures, handgun safety and maintenance; and  
4           (4) Any other topics of armed private investigator training that the Board  
5 and the State deem necessary.

6 **"§ 74E-11. Denial, suspension, or revocation of license, registration, or permit.**

7           (a) The Private Investigations Regulatory Board may, after compliance with  
8 Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or  
9 permit of an individual who has:

- 10           (1) Knowingly made any false statement or given any false information in  
11 connection with any application for a license, registration, or permit, or  
12 for the renewal or reinstatement of a license, registration, or permit.  
13           (2) Violated any provision of this Chapter.  
14           (3) Violated any rule promulgated by the Private Investigations  
15 Regulatory Board pursuant to the authority contained in this Chapter.  
16           (4) Impersonated, permitted, or aided and abetted any other person to  
17 impersonate a law enforcement officer of the United States, this State,  
18 any other state, or any political subdivision thereof.  
19           (5) Engaged in or permitted any employee to engage in a private  
20 investigation when not lawfully in possession of a valid license issued  
21 under the provisions of this Chapter, except as permitted by G.S. 74E-  
22 3.  
23           (6) Convicted of any illegal drug use, possession, transfer, manufacture, or  
24 transportation of any scheduled drug.  
25           (7) Undertaken to give legal advice or counsel, or to in any way falsely  
26 represent that he is representing any attorney, or that he is appearing or  
27 will appear as an attorney in any legal proceeding.  
28           (8) Failed to make the required contribution to the Private Investigation  
29 Service Recovery Fund, or failed to maintain the certificate of liability  
30 insurance required by this Chapter.  
31           (9) Violated the firearm provisions set forth in this Chapter or in  
32 regulations established by the Private Investigations Regulatory Board.  
33           (10) Been convicted of any felony crime.  
34           (11) Failed to notify the Administrator, for a business entity other than a  
35 sole proprietorship, licensed under this Chapter of the cessation of  
36 employment of the business entity's qualifying agent within the time  
37 set forth in this Chapter.  
38           (12) Failed to obtain a substitute qualifying agent, for a business entity,  
39 within 30 days after its qualifying agent has ceased to serve as the  
40 business entity's qualifying agent.  
41           (13) Been judged incompetent by a court having jurisdiction under Chapter  
42 35A or former Chapter 35 of the General Statutes, or committed to a  
43 mental health facility for treatment of mental illness, as defined in G.S.  
44 122C-3, by court under G.S. 122C-271.

- 1           (14) Failed or refused to offer a report to a client within 30 days of the  
2           client's written request.
- 3           (15) Advertised, solicited business, or engaged in a private investigation  
4           service under a name other than the name or names registered with the  
5           Private Investigations Regulatory Board.
- 6           (16) Divulged to any person, except as required by law, any confidential  
7           information acquired by him except at the direction of the employer or  
8           client for whom the information was obtained. A licensee may divulge  
9           to any law enforcement officer, district attorney, or his representative  
10          any information the law enforcement officer may require to investigate  
11          a criminal offense.
- 12          (17) Demonstrated intemperate habits or lacks good moral character. The  
13          acts that are **prima facie** evidence of intemperate habits or lack of  
14          good moral character under G.S. 74E-7 are **prima facie** evidence of  
15          the same under this subdivision.
- 16          (18) Worn, carried, or displayed in any way any badge purporting to show  
17          him as a law enforcement officer of any jurisdiction.
- 18          (19) Failed to comply with G.S. 74E-9 or G.S. 74E-10 before carrying a  
19          concealed weapon;
- 20          (20) Engaged in a private investigation service or counterintelligence  
21          service while his license was suspended;
- 22          (21) Engaged in a private investigation service or counterintelligence  
23          service without having first obtained a proper license, except as  
24          permitted by G.S. 74E-3.
- 25          (22) Committed any of the offenses for which a license could be denied  
26          under this Chapter.
- 27          (b) The denial, revocation, or suspension of a license, registration, or permit by  
28          the Private Investigations Regulatory Board shall be in writing, signed by the  
29          Administrator, and shall state the grounds upon which the Board's decision is based.  
30          The person affected may appeal this decision as provided in Chapter 150B of the  
31          General Statutes.
- 32          (c) Sworn law enforcement officers except those in a nonpaid volunteer status  
33          shall not be issued a license, registration, or permit under this Chapter. A private  
34          investigator, associate private investigator, or counterintelligence investigator with such  
35          status shall not carry a concealed weapon unless he has also complied with the  
36          provisions of this Chapter.
- 37          **§ 74E-12. Mace.**
- 38          Private investigators registered under this Chapter may possess and use tear gas  
39          (mace) and like products to the extent allowed under the provisions of G.S. 14-401.6.
- 40          **§ 74E-13. Pocket identification cards.**
- 41          Upon the issuance of a license or associate permit, a pocket identification card of  
42          design, size, and content approved by the Private Investigations Regulatory Board shall  
43          be issued by the Board without charge to each licensee or associate. The holder must  
44          have this card in his possession at all times when he is working within the scope of his

1 employment except when that employment involves an undercover assignment. When a  
2 licensee or associate to whom a card has been issued terminates his position as a  
3 licensee or associate, the card must be surrendered to the Administrator of the Board  
4 within 10 working days thereafter.

5 **"§ 74E-14. Prohibited acts.**

6 It shall be unlawful for anyone not licensed or registered as required by this Chapter  
7 to advertise or to hold himself out to be a licensee, or to advertise or to hold himself out  
8 to perform services for which a license is required.

9 **"§ 74E-15. Enforcement.**

10 (a) The Private Investigations Regulatory Board may apply in its own name to  
11 any judge of the Superior Court of the General Court of Justice for an injunction in  
12 order to prevent any violation or threatened violation of the provisions of this Chapter.

13 (b) Any person, firm, association, or corporation or, their agents and employees  
14 violating any of the provisions of this Chapter or knowingly violating any rule  
15 promulgated to implement this Chapter, shall be guilty of a misdemeanor and  
16 punishable by a fine of up to five hundred dollars (\$500.00), by imprisonment for a term  
17 not to exceed one year, or both, in the discretion of the court. The Attorney General, or  
18 his representative, shall have concurrent jurisdiction with the district attorneys of this  
19 State to prosecute violations of this Chapter.

20 (c) In lieu of revocation or suspension of a license or permit under G.S. 74E-11,  
21 a civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the  
22 Private Investigations Regulatory Board against any person or business who violates  
23 any provision of this Chapter or any rule of the Board adopted under this Chapter. In  
24 determining the amount of any penalty, the board shall consider the degree and extent of  
25 harm caused by the violation.

26 (d) Proceedings for the assessment of civil penalties under this section shall be  
27 governed by Chapter 150B of the General Statutes. If the person, firm, association, or  
28 corporation assessed a civil penalty fails to pay the penalty to the Private Investigations  
29 Regulatory Board, the Board may institute an action in the superior court of the county  
30 in which the entity resides or has its principal place of business to recover the unpaid  
31 amount of the penalty. An action to recover a civil penalty under this section shall not  
32 relieve any party from any other action prescribed by law.

33 **"§ 74E-16. Reciprocity; temporary permit.**

34 (a) To the extent that other states that provide for licensing of private  
35 investigators or counterintelligence investigators provide for similar action for citizens  
36 of this State, the Private Investigations Regulatory Board, in its discretion may grant a  
37 private investigators license to a nonresident who holds a valid private investigators  
38 license from another state, upon satisfactory proof furnished to the Board that the  
39 standards of licensure in the other states is substantially equivalent to those prevailing in  
40 this State. Applicants shall make application to the Board on the form prescribed by the  
41 Board for all applicants, shall comply with the provisions of G.S. 74E-10, and shall pay  
42 the fees required of all applicants.

43 (b) The Administrator, in his discretion and subject to the approval of the Private  
44 Investigations Regulatory Board may issue a temporary permit to a nonresident who has

1 complied with the provisions of this Chapter and who is validly licensed in another  
2 state, to engage in private investigative service activity incidental to one specific case  
3 originating in another state. The temporary permit may be issued for a period of no  
4 more than 10 days and may be renewed once. A temporary permit may contain such  
5 restrictions as the Board, in its discretion, deems appropriate.

6 (c) To the extent that any other state provides for licensing of private  
7 investigators and provides for similar action for citizens and licenses of this State, a  
8 licensed private investigator or counterintelligence investigator from that state may  
9 follow or investigate a case in North Carolina that originates in his home state or  
10 jurisdiction of license provided that (i) his duties cause the out-of-state licensed private  
11 investigator or counterintelligence investigator to remain in North Carolina for a period  
12 of 10 or more consecutive days; and (ii) he reports to the Administrator his name, home  
13 and business addresses, state of license, license number, and projected length of stay.  
14 An out-of-state licensed private investigator or counterintelligence investigator who  
15 stays in this State for a period of 10 consecutive days or longer must apply for a  
16 temporary license and comply with the provisions of this Chapter for all licensees.

17 **"§ 74E-17. Severability.**

18 If any provision of this Chapter or application thereof to any person or circumstance  
19 is for any reason held invalid, such invalidity shall not affect other provisions or  
20 applications of the Article which can be given effect without the invalid provision or  
21 application, and to this end the provisions of this Chapter are declared to be severable.

22 **"§ 74E-18. Fees, additional licenses.**

23 (a) The Private Investigations Regulatory Board may charge reasonable fees as  
24 follows:

- 25 (1) A nonrefundable initial application fee not to exceed two hundred  
26 dollars (\$200.00);
- 27 (2) An annual license or renewal fee not to exceed two hundred dollars  
28 (\$200.00);
- 29 (3) An annual associate license or renewal fee not to exceed two hundred  
30 dollars (\$200.00);
- 31 (4) A late renewal fee, to be paid in addition to the renewal fee due, not to  
32 exceed one hundred dollars (\$100.00);
- 33 (5) An application fee for an armed private investigator registration permit  
34 not to exceed fifty dollars (\$50.00);
- 35 (6) A new, renewal, replacement, or reissuance fee for an armed private  
36 investigator not to exceed thirty dollars (\$30.00);
- 37 (7) A branch office license fee not to exceed fifty dollars (\$50.00); and
- 38 (8) A nonresident temporary permit fee not to exceed one hundred dollars  
39 (\$100.00).

40 (b) Any person holding a valid license under this Chapter may purchase  
41 additional licenses offered under this Chapter, subject to a fee of twenty-five percent  
42 (25%) of the ordinary charge for the license under this Chapter, if the applicant meets  
43 all the criteria and requirements for the additional license. The background

1 investigation conducted for approval of the initial license shall be accepted for issuance  
2 of the additional license.

3 **"ARTICLE 2.**

4 **"PRIVATE INVESTIGATION SERVICE RECOVERY FUND.**

5 **"§ 74E-20. Private Investigation Recovery Fund created; payments to Fund;**  
6 **management; use of funds.**

7 (a) There is hereby created and established a special Fund to be known as the  
8 'Private Investigation Recovery Fund' (hereafter Fund) which shall be set aside and  
9 maintained in the Office of the State Treasurer. Said Fund shall be used in the manner  
10 provided in this Article for the payment of claims where the aggrieved person has  
11 suffered a direct monetary loss by reason of certain acts committed by any person  
12 licensed under this Chapter.

13 (b) Upon enactment of this Chapter, the Private Protective Services Fund  
14 established under the provisions of Chapter 74C of the General Statutes shall make  
15 payment into the Fund established by this Chapter in an amount equal to the amount  
16 contributed into the Chapter 74C Fund by each licensee, trainee, associate, or registrant  
17 that licensed or registered as a private investigator or counterintelligence investigator at  
18 that time.

19 (c) This Article does not limit the authority of the Private Investigations  
20 Regulatory Board to take disciplinary action against any licensee or associate under this  
21 Chapter, nor shall the repayment in full of obligations to the Fund by any licensee or  
22 associate nullify or modify the effect of any other disciplinary proceeding brought under  
23 this Chapter.

24 (d) In addition to the fees provided for elsewhere in this Chapter, the Private  
25 Investigations Regulatory Board shall charge each new applicant for a license or  
26 associate permit fifty dollars (\$50.00) which shall be deposited into the Fund. No  
27 applicant for any license or permit under this Chapter shall be required to pay into the  
28 Fund more than once except as provided for elsewhere by this Chapter.

29 (e) The Private Investigations Regulatory Board shall not expend funds for other  
30 than payments to aggrieved persons which cause funds to drop below twenty thousand  
31 dollars (\$20,000). The State Treasurer shall invest and reinvest the monies of the Fund  
32 in a manner as provided by law, provided that sufficient liquidity shall be maintained to  
33 satisfy claims authorized by the Board. The proceeds from such investments shall be  
34 deposited to the credit of the Fund. The Board in its discretion, may use any and all of  
35 the proceeds from such investments for any of the following purposes:

- 36 (1) To advance education and research in the private investigative or  
37 counterintelligence fields for the direct benefit of those licensed under  
38 the provisions of this Chapter and for the improvement of the industry;  
39 (2) To underwrite educational seminars, training, and other educational  
40 projects for the use and direct benefit generally of licensees and  
41 associates.

42 **"§ 74E-21. Application for payment out of Fund; hearing grounds.**

43 (a) The Fund shall serve as a guaranty for the obligations of those licensed under  
44 this Chapter. The Fund's liability, as guaranty, is contingent upon a licensee or



1 associate defaulting upon obligation owed to a person by the licensee or associate where  
2 said obligation was entered into by the licensee or associate within the scope of the  
3 licensee's or associate's employment in providing private investigative services or  
4 counterintelligence services. The Private Investigations Regulatory Board shall be  
5 subrogated by the licensee or associate in the amount paid out and the license or  
6 associate permit shall be revoked or suspended until such time as full restitution is made  
7 to the Fund. The aggrieved party must exhaust all civil remedies against the licensee or  
8 associate or the estate of the licensee or associate before seeking reimbursement from  
9 the Fund. The following shall be excluded from reimbursable losses:

- 10 (1) Losses of spouses, children, parents, grandparents, siblings, partners,  
11 associates, and employees of the licensee or associate causing the  
12 losses;  
13 (2) Losses covered by any bond, surety agreement, or insurance contract  
14 to the extent covered thereby;  
15 (3) Losses that have been otherwise received from or paid by or on behalf  
16 of the licensee or associate who defaulted on an obligation.

17 (b) An aggrieved party may petition the Private Investigations Regulatory Board  
18 for a hearing to determine whether or not a licensee or associate; defaulted upon an  
19 obligation owed to the aggrieved party by the licensee or associate; whether, if such an  
20 obligation is found, it arose within the licensee's or associate's scope of employment  
21 while providing investigative services; and if so, the amount of damages suffered by the  
22 aggrieved party. Said hearing shall be governed by the procedures of Chapter 150B of  
23 the General Statutes.

24 (c) Claims filed under this Chapter may only be brought for obligations incurred  
25 on or after July 1, 1991.

26 (d) Until such time as the Fund reaches twenty thousand dollars (\$20,000), or at  
27 any time the Fund has insufficient assets in excess of twenty thousand dollars (\$20,000)  
28 to pay outstanding claims, the State Treasurer shall not disburse any payments to an  
29 aggrieved party. However, any party aggrieved and awarded payment as ordered by the  
30 Private Investigations Regulatory Board which order is dated after July 1, 1991, shall  
31 hold a vested right for payment plus interest as provided in G.S. 24-1 once the Fund  
32 reaches a sufficient level for payments. Authorized payments which cannot be made  
33 due to a lack of funds will be paid as funds become available, beginning with those  
34 payments which have been unsatisfied for the longest period of time.

35 (e) Hearings held pursuant to this Article shall be separate and apart from any  
36 authorized pursuant to Article 1 of this Chapter. However, there is no prohibition  
37 against, if the Private Investigations Regulatory Board so desires, holding hearings  
38 pursuant to Article 1 and Article 2 at the same location, on the same date, or in front of  
39 the same hearing officer provided that in so doing no provisions of Chapter 150B of the  
40 General Statutes are violated.

41 **"§ 74E-22. Order directing payment out of Fund.**

42 If the Private Investigations Regulatory Board finds, after a hearing pursuant to G.S.  
43 74E-19, that the Fund as guarantor, should make a payment to an aggrieved party, the  
44 Board shall enter an order directed to the State Treasurer authorizing payment from the

1 Fund of whatever sum the Board shall find to be payable in accordance with the  
2 limitations contained in this Article.

3 **"§ 74E-23. Maximum liability; pro rata distribution.**

4 (a) Payment from the Fund shall be subject to the following limitations:

5 (1) The Fund shall not be liable for more than five thousand dollars  
6 (\$5,000) per obligation, regardless of the number of persons aggrieved;

7 and

8 (2) The liability of the Fund shall not exceed in the aggregate ten thousand  
9 dollars (\$10,000) for any one licensee or associate within a single  
10 calendar year.

11 (b) If the maximum liability of the Fund is insufficient to pay in full the valid  
12 claims of all aggrieved persons whose claims relate to the same obligation to the same  
13 licensee or associate, the amount for which the Fund is liable shall be distributed among  
14 the claimants in a ratio that their respective claims bear to the total of such valid claims,  
15 or in such manner as the Private Investigations Regulatory Board deems equitable.  
16 Upon action of the Board of parties, the Board may require all claimants and  
17 prospective claimants to be joined in one action to the end that the respective rights of  
18 all such claimants to the Fund may be equitably adjudicated and settled."

19 Sec. 2. G.S. 74C-3(a) reads as rewritten:

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

22 (1) 'Armored car profession' means any person, firm, association, or  
23 corporation which provides secured transportation and protection from  
24 one place or point to another place or point of money, currency, coins,  
25 bullion, securities, checks, documents, stocks, bonds, jewelry,  
26 paintings, and other valuables for a fee or other valuable consideration.  
27 This definition does not include a person operating an armored car  
28 business pursuant to a motor carrier certificate or permit issued by the  
29 North Carolina Utilities Commission which grants operating rights for  
30 such business; however, armed armored car service guards shall be  
31 subject to the provisions of G.S. 74C-13.

32 (2) Repealed by Session Laws 1983, c. 786, s. 2, effective January 1,  
33 1984.

34 ~~(3) 'Counterintelligence service profession' means any person, firm,~~  
35 ~~association, or corporation which discovers, locates, or disengages by~~  
36 ~~electronic, electrical, or mechanical means any listening or other~~  
37 ~~monitoring equipment surreptitiously placed to gather information~~  
38 ~~concerning any individual, firm, association, or corporation for a fee or~~  
39 ~~other valuable consideration.~~

40 (4) 'Courier service profession' means any person, firm, association, or  
41 corporation which transports or offers to transport from one place or  
42 point to another place or point documents, papers, maps, stocks, bonds,  
43 checks, or other small items of value which require expeditious service  
44 for a fee or other valuable consideration. This definition does not

1 include a person operating a courier service pursuant to a motor carrier  
2 certificate or permit issued by the North Carolina Utilities Commission  
3 which grants operating rights for such service; however, armed courier  
4 service guards shall be subject to the provisions of G.S. 74C-13.

5 (5) 'Detection of deception examiner' means any person, firm, association,  
6 or corporation which uses any device or instrument, regardless of its  
7 name or design, for the purpose of the detection of deception or any  
8 person who reviews the work product of an examiner including charts,  
9 tapes or other methods of record keeping for the purpose of detecting  
10 deception or determining accuracy.

11 (6) 'Security guard and patrol profession' means any person, firm,  
12 association, or corporation that provides a security guard on a  
13 contractual basis for another person, firm, association, or corporation  
14 for a fee or other valuable consideration and performing one or more  
15 of the following functions:

- 16 a. Prevention or detection of intrusion, entry, larceny, vandalism,  
17 abuse, fire, or trespass on private property;
- 18 b. Prevention, observation, or detection of any unauthorized  
19 activity on private property;
- 20 c. Protection of patrons and persons lawfully authorized to be on  
21 the premises of the person, firm, association, or corporation that  
22 entered into the contract for security services; or
- 23 d. Control, regulation, or direction of the flow or movement of the  
24 public, whether by vehicle or otherwise, only to the extent and  
25 for the time directly and specifically required to assure the  
26 protection of properties.

27 (7) 'Guard-dog service profession' means any person, firm, association, or  
28 corporation which contracts with another person, firm, association, or  
29 corporation to place, lease, rent, or sell a trained dog for the purpose of  
30 protecting lives or property for a fee or other valuable consideration.

31 (8) ~~'Private detective' or 'private investigator' are synonymous and mean  
32 any person who engages in the profession of or accepts employment to  
33 furnish, agrees to make, or makes inquiries or investigations  
34 concerning the below-listed topics on a contractual basis:~~

- 35 a. ~~Crimes or wrongs done or threatened against the United States  
36 or any state or territory of the United States;~~
- 37 b. ~~The identity, habits, conduct, business, occupation, honesty,  
38 integrity, credibility, knowledge, trustworthiness, efficiency,  
39 loyalty, activity, movement, whereabouts, affiliations,  
40 associations, transactions, acts, reputation, or character of any  
41 person;~~
- 42 e. ~~The location, disposition, or recovery of lost or stolen property;~~
- 43 d. ~~The cause or responsibility for fires, libels, losses, accidents,  
44 damages, or injuries to persons or to properties;~~

- 1                   e.     ~~Securing evidence to be used before any court, board, officer, or~~  
2                    ~~investigative committee; or~~  
3                   f.     ~~Protection of individuals from serious bodily harm or death.~~  
4           (9)     'Special limited guard and patrol profession' means any person who is  
5                   licensed under Chapter 74D of the General Statutes of North Carolina  
6                   and provides armed alarm responders pursuant to G.S. 74C-13.  
7                   Applicants for this limited license shall not be required to meet the  
8                   experience requirements for a security guard and patrol license. Any  
9                   experience gained under this limited license shall not be counted as  
10                  experience for a security guard and patrol license."  
11                  Sec. 3. Section 2 of this act becomes effective January 1, 1992. The  
12                  remainder of this act is effective upon ratification.