

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 655  
Commerce Committee Substitute Adopted 5/14/03**

Short Title: Amend Locksmith Act/Criminal Checks/Fees.

(Public)

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Sponsors:

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Referred to:

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April 1, 2003

A BILL TO BE ENTITLED

1  
2 AN ACT TO MAKE CLARIFYING CHANGES TO THE DEFINITION OF  
3 LOCKSMITH SERVICES UNDER THE LOCKSMITH LICENSING ACT, TO  
4 AMEND THE POWERS OF THE NORTH CAROLINA LOCKSMITH  
5 LICENSING BOARD TO ALLOW THE BOARD TO EMPLOY AN ATTORNEY  
6 AND HAVE CONDUCTED CRIMINAL HISTORY RECORD CHECKS ON  
7 APPLICANTS, TO AMEND THE LOCKSMITH LICENSING ACT TO ALLOW  
8 THE BOARD TO REGULATE APPRENTICE LOCKSMITHS AND COLLECT  
9 FEES, TO CLARIFY THE EXEMPTION FOR TOWING SERVICES UNDER  
10 THE ACT, AND TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO  
11 CONDUCT CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR  
12 LICENSURE OR APPRENTICE DESIGNATION AS A LOCKSMITH.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 74F-4(5) reads as rewritten:

15 "(5) Locksmith services. – Repairing, rebuilding, rekeying, repinning,  
16 servicing, adjusting, or installing locks, mechanical or electronic  
17 locking devices, access control devices, egress control devices, safes,  
18 vaults, and safe-deposit boxes for compensation or other consideration,  
19 including services performed by safe technicians."

20 **SECTION 2.** G.S. 74F-6 is amended by adding the following new  
21 subdivisions to read:

22 "The Board shall have the power and duty to:

23 ...

24 (15) Employ an attorney to assist or represent the Board in enforcing this  
25 Chapter.

26 (16) Request that the Department of Justice conduct criminal history record  
27 checks of applicants for licensure and apprenticeships pursuant to G.S.  
28 114-19.8A."

29 **SECTION 3.** G.S. 74F-7 reads as rewritten:

1 **"§ 74F-7. Qualifications for license.**

2 An applicant shall be licensed as a locksmith if the applicant meets all of the  
3 following qualifications:

- 4 (1) Is of good moral and ethical character.
- 5 (2) Is at least 18 years of age.
- 6 (3) Successfully completes an examination administered by the Board that  
7 measures the knowledge and skill of the applicant in locksmith  
8 services and the laws applicable to licensed locksmiths.
- 9 (4) Pays the required fee under G.S. 74F-9.
- 10 (5) Is not disqualified as a result of a criminal history record check in  
11 accordance with G.S. 74F-18."

12 **SECTION 4.** Chapter 74F of the General Statutes is amended by adding a  
13 new section to read:

14 **"§ 74F-7A. Apprentices.**

15 (a) An applicant may receive an apprentice designation if the applicant meets all  
16 of the following requirements:

- 17 (1) Is of good moral and ethical character.
- 18 (2) Is at least 18 years of age.
- 19 (3) Is not disqualified as a result of a criminal history record check in  
20 accordance with G.S. 74F-18.
- 21 (4) Pays the required fee under G.S. 74F-9.

22 (b) After an applicant has satisfied the requirements in subsection (a) of this  
23 section, the apprentice may practice as an apprentice locksmith under the supervision of  
24 a licensed locksmith. The Board shall issue each apprentice a colored badge card that  
25 identifies the individual as an apprentice and includes the apprentice designation. The  
26 Board shall establish requirements for apprentice supervision.

27 (c) An apprentice may have the apprentice designation for no greater than three  
28 years. On or before the three-year period expires, the apprentice shall take the locksmith  
29 licensure examination administered by the Board. If the apprentice fails to take the  
30 examination within the three-year period or fails the exam and does not retake the  
31 examination on or before the three-year period expires, the apprentice shall not receive  
32 licensure and shall not be granted another apprenticeship.

33 (d) If an apprentice terminates employment with a licensed locksmith under  
34 which the apprentice originally received his or her apprenticeship, the apprentice shall  
35 find employment with another licensed locksmith to maintain the apprentice designation  
36 and shall pay a transfer fee pursuant to G.S. 74F-9.

37 Each licensed locksmith shall have no more than two apprentices at one time.  
38 However, a licensed locksmith shall have a 90-day grace period within which to  
39 accommodate more than two apprentices if the apprentice is newly hired as a result of a  
40 previous termination of employment or the inability of a licensed locksmith to supervise  
41 the apprentice. The licensed locksmith shall contact the Board once the locksmith  
42 terminates the additional apprentice, and the licensed locksmith shall be legally  
43 responsible for the apprentice's work until the Board is notified otherwise."

44 **SECTION 5.** G.S. 74F-9 reads as rewritten:

1 "§ 74F-9. Fees.

2 The Board shall establish fees not exceeding the following amounts:

|   |     |                                |                               |
|---|-----|--------------------------------|-------------------------------|
| 3 | (1) | Issuance of a license          | \$100.00                      |
| 4 | (2) | Renewal of a license           | \$100.00                      |
| 5 | (3) | Examination                    | \$200.00                      |
| 6 | (4) | Reinstatement                  | \$150.00                      |
| 7 | (5) | Late fees                      | <del>\$150.00.</del> \$150.00 |
| 8 | (6) | <u>Apprentice fee</u>          | <u>\$100.00</u>               |
| 9 | (7) | <u>Apprentice transfer fee</u> | <u>\$25.00."</u>              |

10 **SECTION 6.** G.S. 74F-16(4) reads as rewritten:

11 "The provisions of this Chapter do not apply to:

12 ...

- 13 (4) An employee of a towing ~~service,~~ service or an automotive repair  
14 business providing services in the normal course of its business, a  
15 repossessor, a taxi cab service, a motor vehicle dealer as defined in  
16 G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when  
17 opening automotive locks in the normal course of their duties, so long  
18 as the employee does not represent himself or herself as a locksmith.

19 ...."

20 **SECTION 7.** Chapter 74F of the General Statutes is amended by adding a  
21 new section to read:

22 "**§ 74F-18. Criminal history record checks of applicants for licensure or**  
23 **apprentice designation.**

24 (a) Definitions. – The following definitions shall apply in this section:

- 25 (1) Applicant. – A person applying for licensure as a locksmith pursuant  
26 to G.S. 74F-7 or apprentice designation pursuant to G.S. 74F-7A.  
27 (2) Criminal history. – A history of conviction of a state or federal crime,  
28 whether a misdemeanor or felony, that bears on an applicant's fitness  
29 for licensure to practice locksmithing. The crimes include the criminal  
30 offenses set forth in any of the following Articles of Chapter 14 of the  
31 General Statutes: Article 5, Counterfeiting and Issuing Monetary  
32 Substitutes; Article 5A, Endangering Executive and Legislative  
33 Officers; Article 6, Homicide; Article 7A, Rape and Other Sex  
34 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction;  
35 Article 13, Malicious Injury or Damage by Use of Explosive or  
36 Incendiary Device or Material; Article 14, Burglary and Other  
37 Housebreakings; Article 15, Arson and Other Burnings; Article 16,  
38 Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19,  
39 False Pretenses and Cheats; Article 19A, Obtaining Property or  
40 Services by False or Fraudulent Use of Credit Device or Other Means;  
41 Article 19B, Financial Transaction Card Crime Act; Article 20,  
42 Frauds; Article 21, Forgery; Article 26, Offenses Against Public  
43 Morality and Decency; Article 26A, Adult Establishments; Article 27,  
44 Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,

1 Misconduct in Public Office; Article 35, Offenses Against the Public  
2 Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection  
3 of Minors; Article 40, Protection of the Family; Article 59, Public  
4 Intoxication; and Article 60, Computer-Related Crime. The crimes  
5 also include possession or sale of drugs in violation of the North  
6 Carolina Controlled Substances Act in Article 5 of Chapter 90 of the  
7 General Statutes and alcohol-related offenses including sale to  
8 underage persons in violation of G.S. 18B-302 or driving while  
9 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In  
10 addition to the North Carolina crimes listed in this subsection, such  
11 crimes also include similar crimes under federal law or under the laws  
12 of other states.

13 (b) All applicants for licensure or apprentice designation shall consent to a  
14 criminal history record check. Refusal to consent to a criminal history record check may  
15 constitute grounds for the Board to deny licensure or apprentice designation to an  
16 applicant. The Board shall ensure that the State and national criminal history of an  
17 applicant is checked. The Board shall be responsible for providing to the North Carolina  
18 Department of Justice the fingerprints of the applicant to be checked, a form signed by  
19 the applicant consenting to the criminal record check and the use of fingerprints and  
20 other identifying information required by the State or National Repositories, and any  
21 additional information required by the Department of Justice. The Board shall keep all  
22 information obtained pursuant to this section confidential.

23 (c) If an applicant's criminal history record check reveals one or more  
24 convictions listed under subdivision (a)(2) of this section, the conviction shall not  
25 automatically bar licensure. The Board shall consider all of the following factors  
26 regarding the conviction:

- 27 (1) The level of seriousness of the crime.
- 28 (2) The date of the crime.
- 29 (3) The age of the person at the time of the conviction.
- 30 (4) The circumstances surrounding the commission of the crime, if known.
- 31 (5) The nexus between the criminal conduct of the person and the job  
32 duties of the position to be filled.
- 33 (6) The person's prison, jail, probation, parole, rehabilitation, and  
34 employment records since the date the crime was committed.
- 35 (7) The subsequent commission by the person of a crime listed in  
36 subsection (a) of this section.

37 If, after reviewing these factors, the Board determines that the applicant's criminal  
38 history disqualifies the applicant for licensure, the Board may deny licensure or  
39 apprentice designation of the applicant. The Board may disclose to the applicant  
40 information contained in the criminal history record check that is relevant to the denial.  
41 The Board shall not provide a copy of the criminal history record check to the applicant.  
42 The applicant shall have the right to appear before the Board to appeal the Board's  
43 decision. However, an appearance before the full Board shall constitute an exhaustion of  
44 administrative remedies in accordance with Chapter 150B of the General Statutes.

1 (d) Limited Immunity. – The Board, its officers, and employees, acting in good  
2 faith and in compliance with this section, shall be immune from civil liability for  
3 denying licensure or apprentice designation to an applicant based on information  
4 provided in the applicant's criminal history record check."

5 **SECTION 8.** Article 4 of Chapter 114 of the General Statutes is amended by  
6 adding a new section to read:

7 "**§ 114-19.12. Criminal record checks of applicants for licensure or apprentice**  
8 **designation.**

9 The Department of Justice may provide to the North Carolina Locksmith Licensing  
10 Board from the State and National Repositories of Criminal Histories the criminal  
11 history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F  
12 of the General Statutes. Along with the request, the Board shall provide to the  
13 Department of Justice the fingerprints of the applicant, a form signed by the applicant  
14 consenting to the criminal record check and use of fingerprints and other identifying  
15 information required by the State and National Repositories, and any additional  
16 information required by the Department of Justice. The applicant's fingerprints shall be  
17 forwarded to the State Bureau of Investigation for a search of the State's criminal  
18 history record file, and the State Bureau of Investigation shall forward a set of  
19 fingerprints to the Federal Bureau of Investigation for a national criminal history record  
20 check. The Board shall keep all information obtained pursuant to this section  
21 confidential. The Department of Justice may charge a fee to offset the cost incurred by it  
22 to conduct a criminal record check under this section. The fee shall not exceed the  
23 actual cost of locating, editing, researching, and retrieving the information."

24 **SECTION 9.** This act becomes effective July 1, 2003.