

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SENATE BILL 655
RATIFIED BILL**

AN ACT TO MAKE CLARIFYING CHANGES TO THE DEFINITION OF LOCKSMITH SERVICES UNDER THE LOCKSMITH LICENSING ACT, TO AMEND THE POWERS OF THE NORTH CAROLINA LOCKSMITH LICENSING BOARD TO ALLOW THE BOARD TO EMPLOY AN ATTORNEY AND HAVE CONDUCTED CRIMINAL HISTORY RECORD CHECKS ON APPLICANTS, TO AMEND THE LOCKSMITH LICENSING ACT TO ALLOW THE BOARD TO REGULATE APPRENTICE LOCKSMITHS AND COLLECT FEES, TO CLARIFY THE EXEMPTION FOR GENERAL CONTRACTORS, TO CLARIFY THE EXEMPTION FOR TOWING SERVICES UNDER THE ACT, AND TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE OR APPRENTICE DESIGNATION AS A LOCKSMITH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74F-4 is amended by adding a new subdivision to read:

"(01) Apprentice. – A person who has been issued an apprenticeship designation by the Board."

SECTION 2. G.S. 74F-4(5) reads as rewritten:

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

SECTION 3. G.S. 74F-6(4) reads as rewritten:

"(4) Issue, renew, deny, suspend, or revoke licenses or apprenticeship designations and conduct any disciplinary actions authorized by this Chapter."

SECTION 4. G.S. 74F-6 is amended by adding the following new subdivisions to read:

"The Board shall have the power and duty to:

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

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

SECTION 5. G.S. 74F-7 reads as rewritten:

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

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

(1) Is of good moral and ethical ~~character~~ character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.

(2) Is at least 18 years of age.

- (3) Successfully completes an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths.
- (4) Pays the required fee under G.S. 74F-9."

SECTION 6. Chapter 74F of the General Statutes is amended by adding a new section to read:

"§ 74F-7A. Apprentices.

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

- (1) Is of good moral and ethical character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.
- (2) Is at least 18 years of age.
- (3) Pays the required fee under G.S. 74F-9.

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

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

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

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

SECTION 7. G.S. 74F-9 reads as rewritten:

"§ 74F-9. Fees.

The Board shall establish fees not exceeding the following amounts:

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

SECTION 8. G.S. 74F-15 reads as rewritten:

"§ 74F-15. Disciplinary procedures.

The Board may deny or refuse to renew, suspend, or revoke a license or apprenticeship designation if the ~~licensee~~-licensee, apprentice, or applicant:

- (1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.
- (2) Has been convicted of or pled guilty or no contest to ~~a crime that indicates that the person is unfit or incompetent to perform locksmith services, that involves moral turpitude, or that indicates the person has~~

~~deceived or defrauded the public, any of the crimes listed in G.S. 74F-18(a)(2).~~

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter."

SECTION 9. G.S. 74F-16(2) reads as rewritten:

"The provisions of this Chapter do not apply to:

...
(2) A person working as an apprentice ~~under the supervision of a licensed locksmith while fulfilling the requirements for licensure when acting under the control and supervision of the licensed locksmith,~~ pursuant to G.S. 74F-7A."

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

"The provisions of this Chapter do not apply to:

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

...
SECTION 10.1. G.S. 74F-16(9) reads as rewritten:

"The provisions of this Chapter do not apply to:

...
(9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the ~~general contractor license,~~ license, or an agent or subcontractor of a licensed general contractor when acting within the ordinary course of business."

SECTION 11. Chapter 74F of the General Statutes is amended by adding a

new section to read:

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

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

(1) Applicant. – A person applying for licensure as a locksmith pursuant to G.S. 74F-7 or apprentice designation pursuant to G.S. 74F-7A.

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

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

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

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

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

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

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

SECTION 12. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

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

The Department of Justice may provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F

of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 13. This act becomes effective August 1, 2003.

In the General Assembly read three times and ratified this the 15th day of July, 2003.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2003