

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1045

Short Title: Proprietary School Bond Requirement. (Public)

Sponsors: Representatives Tolson; Faison and Parmon.

Referred to: Education, if favorable, Judiciary II.

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE BOND REQUIREMENTS FOR PROPRIETARY SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-95 reads as rewritten:

"§ 115D-95. Bonds required.

(a) A guaranty bond is required for each school that is licensed to operate: Provided, however, a school that is unable to secure a bond may, with the consent of the State Board of Community Colleges, provide an alternative to a guaranty bond, as provided in subsection (c) of this section.

The State Board may revoke the license of a school that fails to maintain a bond or an alternative to a bond, pursuant to this section.

(b) (1) When application is made for a license or license renewal, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be issued in the name of the North Carolina State Board of Community Colleges. The bond shall be conditioned to provide indemnification-indemnification, in the form of a monetary refund or by providing instruction, to any student, or his or her parent or guardian, who has suffered a loss of tuition or any fees-tuition, fees, or any other instruction-related expense paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, foreclosure, or the school ceasing to operate.

(2) The bond shall be in an amount determined by the State Board of Community Colleges to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. ~~The bond amount for a school shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the school. The bond amount shall also be at least ten thousand dollars (\$10,000).~~ The bond shall be in an amount equal to the greatest amount of unearned tuition and fees paid to the school at any given time. For the purpose of this section, "unearned tuition and fees paid to the school" means the tuition and fees paid by any student multiplied by the percentage of instruction paid for but not received by the student.



1 The school shall assess the bond amount quarterly and report that
2 assessment to the State Board acting by and through the President of the
3 Community College System. If an assessment requires an increase in the
4 bond held by the school of ten percent (10%) or more, the school shall
5 immediately increase the bond amount and report to the State Board acting
6 by and through the President of the Community College System. Bond
7 amounts shall also be assessed pursuant to this subdivision and pursuant to
8 the rules of the State Board at the time of the school's annual license renewal
9 and increased regardless of the amount of the change. The bond amount
10 shall be at least twenty-five thousand dollars (\$25,000). Any school
11 operating with a bond in an amount insufficient to indemnify any student or
12 his or her parent or guardian shall be subject to suspension or revocation of
13 its license in accordance with G.S. 115D-93.

14 Each application for a license or report of a quarterly adjustment to the
15 bond amount shall include a letter signed by an authorized representative of
16 the school showing in detail the calculations made and the method of
17 computing the amount of the bond, pursuant to this subdivision and the rules
18 of the State Board. If the State Board finds that the calculations made and
19 the method of computing the amount of the bond are inaccurate or that the
20 amount of the bond is otherwise inadequate to provide indemnification under
21 the terms of the bond, the State Board may require the applicant to provide
22 an additional bond.

23 (3) The bond shall remain in force and effect until cancelled by the guarantor.
24 The guarantor may cancel the bond upon ~~30~~90 days notice to the State
25 Board of Community Colleges. Cancellation of the bond shall not affect any
26 liability incurred or accrued prior to the termination of the notice period.

27 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
28 from the State Board of Community Colleges and approval of one of the guaranty bond
29 ~~alternatives~~alternatives set forth in this subsection. With the approval of the State Board, an
30 applicant may file with the clerk of the superior court of the county in which the school will be
31 located, in lieu of a bond:

32 (1) An assignment of a savings account in an amount equal to the bond required
33 (i) which is in a form acceptable to the State Board of Community Colleges;
34 (ii) which is executed by the applicant; and (iii) which is executed by a state
35 or federal savings and loan association, state bank, or national bank, that is
36 doing business in North Carolina and whose accounts are insured by a
37 federal depositors corporation; and (iv) for which access to the account in
38 favor of the State of North Carolina is subject to the same conditions as for a
39 bond in subsection (b) of this section.

40 (2) A certificate of deposit (i) which is executed by a state or federal savings and
41 loan association, state bank, or national bank, which is doing business in
42 North Carolina and whose accounts are insured by a federal depositors
43 corporation; and (ii) which is either payable to the State of North Carolina,
44 unrestrictively endorsed to the State Board of Community Colleges; in the
45 case of a negotiable certificate of deposit, is unrestrictively endorsed to the
46 State Board of Community Colleges; or in the case of a nonnegotiable
47 certificate of deposit, is assigned to the State Board of Community Colleges
48 in a form satisfactory to the State Board; and (iii) for which access to the
49 certificate of deposit in favor of the State of North Carolina is subject to the
50 same conditions as for a bond in subsection (b) of this section."

51 **SECTION 2.** This act becomes effective July 1, 2009.