

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 685

Short Title: Modify Regulation of Proprietary Schools. (Public)

Sponsors: Senator Apodaca.

Referred to: Education/Higher Education.

April 20, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW RELATING TO THE REGULATION OF PROPRIETARY  
3 SCHOOLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 8 of Chapter 115D of the General Statutes is amended by  
6 adding three new sections to read:

7 **"§ 115D-89.1. State Board of Private Sector Postsecondary Education.**

8 (a) Effective January 1, 2012, the State Board of Private Sector Postsecondary  
9 Education is established in the Community Colleges System Office.

10 (b) The State Board of Private Sector Postsecondary Education shall consist of seven  
11 members as follows:

12 (1) The person serving as President of the North Carolina Association of Career  
13 Colleges and Schools.

14 (2) Two members appointed by the Governor.

15 (3) Two members appointed by the General Assembly upon the  
16 recommendation of the President Pro Tempore of the Senate, one of whom  
17 shall be the owner or director of a proprietary school licensed in the State  
18 with less than 100 total annual enrollment of students and one the owner or  
19 director of a proprietary school or group of proprietary schools licensed in  
20 the State with more than 750 total annual enrollment of students.

21 (4) Two members appointed by the General Assembly upon the  
22 recommendation of the Speaker of the House of Representatives, one of  
23 whom shall be the owner or director of a proprietary school licensed in the  
24 State with between 100 and 750 total annual enrollment of students and one  
25 the owner or director of a proprietary school licensed in the State.

26 The appointing authorities shall appoint members who have a demonstrated history of  
27 experience in proprietary or public postsecondary education, an understanding of standards of  
28 quality in postsecondary education, and leadership beyond a particular institution.

29 (c) No member of the General Assembly, spouse of a member of the General  
30 Assembly, or officer or employee of the State shall be eligible to serve on the State Board of  
31 Private Sector Postsecondary Education.

32 (d) Initial appointments shall begin July 1, 2011. In order for the terms of members to  
33 be staggered, one initial member appointed by each appointing authority shall be appointed for  
34 a term ending December 30, 2014; the other member shall be appointed for a term ending  
35 December 30, 2017. Subsequent appointments shall be for six-year terms beginning on January  
36 1. No person shall be appointed or elected to more than two consecutive six-year terms.



1 Vacancies in appointments made by the Governor shall be filled by the Governor.  
2 Vacancies in the appointments made by the General Assembly shall be filled in accordance  
3 with G.S. 120-122.

4 (e) The State Board of Private Sector Postsecondary Education may declare vacant the  
5 office of an appointed or elected member who does not attend three consecutive scheduled  
6 meetings without justifiable excuse. The Chair of the State Board of Private Sector  
7 Postsecondary Education shall notify the appropriate appointing or electing authority of any  
8 such vacancy.

9 (f) The Governor shall convene the membership of the State Board on or before  
10 January 1, 2012. At that meeting, the State Board shall elect from its membership a chair and  
11 such other officers as it may deem necessary. Officers shall serve for a term of two years.

12 (g) The State Board of Private Sector Postsecondary Education shall meet at stated  
13 times established by the State Board of Private Sector Postsecondary Education but not less  
14 frequently than four times a year. Special meetings of the State Board of Private Sector  
15 Postsecondary Education may be set at any regular meeting or may be called by the chair. A  
16 majority of the qualified members of the State Board of Private Sector Postsecondary  
17 Education shall constitute a quorum for the transaction of business.

18 **"§ 115D-89.2. Office of Private Sector Postsecondary Education; staff.**

19 The Office of Private Sector Postsecondary Education shall be the principal administrative  
20 unit under the direction of the State Board of Private Sector Postsecondary Education. Unless  
21 specified in G.S. 115D-89.3, the State Board of Private Sector Postsecondary Education has  
22 authority to recommend for adoption and to administer all policies, regulations, and standards  
23 which it deems necessary for the operation of the Office of Private Sector Postsecondary  
24 Education.

25 The State Board of Private Sector Postsecondary Education shall hire an executive director  
26 of the Office of Private Sector Postsecondary Education, who shall serve as chief  
27 administrative officer of the Office of Private Sector Postsecondary Education, or contract with  
28 an outside consultant to serve as the executive director. The compensation of this position shall  
29 be fixed by the State Board of Private Sector Postsecondary Education from funds provided by  
30 fees deposited in the Commercial Education Fund.

31 The State Board of Private Sector Postsecondary Education may hire other employees as it  
32 deems necessary to carry out the provisions of this Article. The compensation of the staff  
33 members hired by the State Board of Private Sector Postsecondary Education shall be fixed by  
34 the State Board upon recommendation of the Executive Director of the Office of Private Sector  
35 Postsecondary Education. The Executive Director shall provide an annual projected operating  
36 budget to the State Board of Private Sector Postsecondary Education at a time each year  
37 designated by the State Board of Private Sector Postsecondary Education. The budget will be  
38 approved by the State Board of Private Sector Postsecondary Education from funds provided  
39 by fees deposited in the Commercial Education Fund.

40 **"§ 115D-89.3. State Board of Private Sector Postsecondary Education and State Board of**  
41 **Community Colleges; licensing authority and coordination of responsibilities to**  
42 **administer Article.**

43 The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant  
44 and issue licenses to proprietary schools by and through the State Board of Private Sector  
45 Postsecondary Education, shall receive written recommendation from the State Board of  
46 Private Sector Postsecondary Education concerning applicants for licenses and annual renewal  
47 applications for licenses. The State Board of Private Sector Postsecondary Education shall  
48 prepare and have approved by the State Board of Community Colleges a certificate of license  
49 that reflects the recommendation of the State Board of Private Sector Postsecondary Education  
50 and approval by the State Board of Community Colleges. The State Board of Community  
51 Colleges shall also receive from the State Board of Private Sector Postsecondary Education and

1 have authority concerning proposed changes to G.S. 115D or 23 NCAC 3A. The State Board of  
2 Community Colleges shall receive a written report annually from the State Board of Private  
3 Sector Postsecondary Education to include the number of schools receiving initial licenses  
4 during the previous year, a list of currently licensed proprietary schools, school closures during  
5 the previous year, including a complete report of actions concerning any catastrophic closures,  
6 complaints received and resulting decisions or actions, total fees received, and balances of the  
7 Commercial Education Fund and the Student Protection Fund. The State Board of Private  
8 Sector Postsecondary Education shall provide the State Board of Community Colleges with any  
9 information requested."

10 **SECTION 2.** G.S. 115D-88(4c) reads as rewritten:

11 "(4c) Classes or schools that the State Board, acting by and through the ~~President~~  
12 ~~of the Community College System, State Board of Private Sector~~  
13 ~~Postsecondary Education,~~ determines are avocational, recreational,  
14 self-improvement, or continuing education for already trained and  
15 occupationally qualified individuals."

16 **SECTION 3.** G.S. 115D-89 reads as rewritten:

17 "**§ 115D-89. State Board of Community Colleges to administer Article; issuance of**  
18 **diplomas by schools; investigation and inspection; rules.**

19 (a) The State Board of Community Colleges, acting by and through the ~~President of the~~  
20 ~~Community College System, State Board of Private Sector Postsecondary Education,~~ shall have  
21 authority to administer and enforce this Article and to grant and issue licenses to proprietary  
22 schools whose sustained curriculum is of a grade equal to that prescribed for similar public  
23 schools and educational institutions of the State and which have met the standards set forth by  
24 the Board, including but not limited to course offerings, adequate facilities, financial stability,  
25 competent personnel and legitimate operating practices.

26 (b) Any such proprietary school may by and with the approval of the State Board of and  
27 Community Colleges issue certificates and diplomas.

28 (c) The State Board, acting by and through the ~~President of the Community College~~  
29 ~~System, State Board of Private Sector Postsecondary Education,~~ shall formulate the criteria and  
30 the standards evolved thereunder for the approval of such schools or educational institutions,  
31 provide for adequate investigations of all schools applying for a license and issue licenses to  
32 those applicants meeting the standards fixed by the Board, maintain a list of schools approved  
33 under the provisions of this Article which list shall be available for the information of the  
34 public, and provide for periodic inspection of all schools licensed under the provisions of this  
35 Article. Through periodic reports required of licensed schools and by inspections made by  
36 authorized representatives of the State Board of Community Colleges, the State Board of  
37 Community Colleges shall have general supervision over proprietary schools in the State, the  
38 object of said supervision being to protect the health, safety and welfare of the public by having  
39 the proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and  
40 proper facilities and equipment, sufficient and qualified teaching and administrative staff, and  
41 satisfactory programs of operation and instruction, and to have the school carry out its  
42 advertised promises and contracts made with its students and patrons. To this end the State  
43 Board of Community Colleges is authorized to issue such rules not inconsistent with the  
44 provisions of this Article as are necessary to administer the provisions of this Article.

45 The State Board, acting by and through the ~~President of the Community College System,~~  
46 ~~State Board of Private Sector Postsecondary Education,~~ may request any occupational licensing  
47 or approving board or agency in this State to adopt rules requiring the approval of that board or  
48 agency for a course of study. Under these rules, the board or agency shall pass on the adequacy  
49 of equipment, curricula, and instructional personnel. The State Board of Community Colleges  
50 may deny approval to a course of study that is not approved by such board or agency."

51 **SECTION 4.** G.S. 115D-90(a) reads as rewritten:

1 **"§ 115D-90. License required; application for license; school bulletins; requirements for**  
2 **issuance of license; license restricted to courses indicated; supplementary**  
3 **applications.**

4 (a) No person shall operate, conduct or maintain or offer to operate in this State a  
5 proprietary school unless a license is first secured from the State Board of Community Colleges  
6 granted in accordance with the provisions of this Article and the rules adopted by the Board  
7 under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal  
8 acceptance by the Board of the educational programs and facilities of each school approved.

9 (b) Application for a license shall be filed in the manner and upon the forms prescribed  
10 and furnished by the ~~President of the Community College System~~ State Board of Private Sector  
11 Postsecondary Education for that purpose. Such application shall be signed by the applicant and  
12 properly verified and shall contain such of the following information as may apply to the  
13 particular school for which a license is sought:

- 14 (1) The title or name of the school or classes, together with the name and  
15 address of the owners and of the controlling officers thereof.
- 16 (2) The general field of instruction.
- 17 (3) The place or places where such instruction will be given.
- 18 (4) A specific listing of the equipment available for instruction in each field.
- 19 (5) The qualifications of instructors and supervisors.
- 20 (6) Financial resources available to equip and to maintain the school or classes.
- 21 (7) Such additional information as the State Board, acting by and through the  
22 ~~President of the Community College System~~, State Board of Private Sector  
23 Postsecondary Education, may deem necessary to enable it to determine the  
24 adequacy of the program of instruction and matters pertaining thereto. Each  
25 application shall be accompanied by a copy of the current bulletin or catalog  
26 of the school which shall be in published form and certified by an authorized  
27 official of the school as being current, true, and correct in content and policy.  
28 The school bulletin shall contain the following information:
  - 29 a. Identifying data, such as volume number and date of publication.
  - 30 b. Names of the institution and its governing body, officials and faculty.
  - 31 c. A calendar of the institution showing legal holidays, beginning and  
32 ending date of each quarter, term or semester, and other important  
33 dates.
  - 34 d. Institution's policy and regulations relative to leave, absences, class  
35 cuts, make-up work, tardiness and interruptions for unsatisfactory  
36 attendance.
  - 37 e. Institution's policy and regulations on enrollment with respect to  
38 enrollment dates and specific entrance requirements for each course.
  - 39 f. Institution's policy and regulations relative to standards of progress  
40 required of the student by the institution. This policy will define the  
41 grading system of the institution; the minimum grades considered  
42 satisfactory; conditions for interruption for unsatisfactory grades or  
43 progress and description of the probationary period, if any, allowed  
44 by the institution; and conditions of reentrance for those students  
45 dismissed for unsatisfactory progress. A statement will be made  
46 regarding progress records kept by the institution and furnished the  
47 student.
  - 48 g. Institution's policy and regulations relating to student conduct and  
49 conditions for dismissal for unsatisfactory conduct.

- 1 h. Detailed schedule for fees, charges for tuition, books, supplies, tools,  
2 student activities, laboratory fees, service charges, rentals, deposits,  
3 and all other charges.
- 4 i. Policy and regulations of the institution relative to the refund of the  
5 unused portion of tuition, fees and other charges in the event the  
6 student does not enter the course or withdraws or is discontinued  
7 therefrom. The policy and regulations shall provide for, at a  
8 minimum, a full refund if a student withdraws before the first day of  
9 class or the school cancels the class and a seventy-five percent (75%)  
10 refund if the student withdraws within the first twenty-five percent  
11 (25%) of the period of enrollment for which the student was charged.
- 12 j. A description of the available space, facilities and equipment.
- 13 k. A course outline for each course for which approval is requested,  
14 showing:
- 15 1. Subjects or units in the course,  
16 2. Type of skill to be learned, and  
17 3. Approximate (i) time; (ii) clock hours, and (iii) credit hours  
18 or credit hours equivalent, as appropriate, to be spent on each  
19 subject or unit.
- 20 l. Policy and regulations of the institution relative to granting credit for  
21 previous educational training.
- 22 (c) After due investigation and consideration on the part of the State Board, acting by  
23 and through the State Board of Private Sector Postsecondary Education, as provided herein, a  
24 license shall be granted to the applicant when it is shown to the satisfaction of said Board that  
25 said applicant, school, programs of study or courses are found to have met the following  
26 criteria:
- 27 (1) The courses, curriculum and instruction are consistent in quality, content and  
28 length with similar courses in public schools and other private schools in the  
29 State, with recognized accepted standards.
- 30 (2) There is in the institution adequate space, equipment, instructional material  
31 and instructor personnel to provide training of good quality.
- 32 (3) Education and experience qualifications of director, administrators and  
33 instructors are adequate.
- 34 (4) The institution maintains a written record of the previous education and  
35 training of the student.
- 36 (5) A copy of the course outline, schedule of tuition, fees and other charges,  
37 regulations pertaining to absences, grading policy and rules of operation and  
38 conduct will be furnished the student upon enrollment.
- 39 (6) Upon completion of training, the student is given a certificate or diploma by  
40 the institution indicating the approved course or subjects and indicating that  
41 training was satisfactorily completed.
- 42 (7) Adequate records as prescribed by the State Board of Community Colleges,  
43 acting by and through the State Board of Private Sector Postsecondary  
44 Education, are kept to show attendance and progress or grades and  
45 satisfactory standards relating to attendance, progress and conduct are  
46 enforced.
- 47 (8) The school complies with all local, city, county, municipal, State and federal  
48 regulations, such as fire codes, building and sanitation codes. The State  
49 Board of Community Colleges may require such evidence of compliance as  
50 is deemed necessary.

- 1 (9) The school is financially sound and capable of fulfilling its commitments for  
2 training.
- 3 (10) The school does not exceed its enrollment limitation as established by the  
4 State Board of Community Colleges.
- 5 (11) The school does not utilize advertising of any type which is erroneous or  
6 misleading, either by actual statement, omission or intimation.
- 7 (12) The school's administrators, directors, owners and instructors are of good  
8 reputation and character.
- 9 (13) Such additional criteria as may be deemed necessary by the State Board.

10 (d) Any license issued shall be restricted to the programs of instruction or courses or  
11 subjects specifically indicated in the application for a license. The holder of a license shall  
12 present a supplementary application as may be directed by the State Board of Private Sector  
13 Postsecondary Education for approval of additional programs of instruction, courses, or  
14 subjects, in which it is desired to offer instruction during the effective period of the license."

15 **SECTION 5.** G.S. 115D-91 reads as rewritten:

16 "**§ 115D-91. Duration and renewal of licenses; notice of change of ownership,**  
17 **administration, etc.; license not transferable.**

18 (a) All licenses issued shall expire on ~~June 30 next following the date of issuance.~~June  
19 30.

20 (b) Unless a duration is otherwise prescribed by the State Board of Community  
21 Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are  
22 met:

- 23 (1) An application for the renewal of the license has been filed in the form and  
24 manner prescribed by the State Board, acting by and through the ~~President of~~  
25 ~~the Community College System.~~ State Board of Private Sector  
26 Postsecondary Education.
- 27 (2) The renewal fee has been paid.
- 28 (3) The school and its courses, facilities, faculty and all other operations are  
29 found to meet the criteria set forth in the requirements for a school to secure  
30 an original license.

31 (c) After a license is granted to any school by the State Board of Community Colleges  
32 on the basis of its application, it shall be the responsibility of said school to notify immediately  
33 said Board of any changes in the ownership, administration, location, faculty, the instructional  
34 program or other changes as may affect significantly the course of instruction offered.

35 (d) In the event of the sale of such school, the license already granted to the original  
36 owner or operators thereof shall not be transferable to the new ownership or operators.  
37 Provided, however, the ~~President of the Community College System~~ State Board of Private  
38 Sector Postsecondary Education may issue a 90-day, temporary operating license to a school  
39 upon its sale if the school held a valid, current license prior to the sale, and if the ~~President~~  
40 State Board of Private Sector Postsecondary Education finds that the school is likely to qualify  
41 after the sale for a license under this Article."

42 **SECTION 6.** G.S. 115D-92 reads as rewritten:

43 "**§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund**  
44 **of fees.**

45 The ~~State Board of Community Colleges~~ State Board of Private Sector Postsecondary  
46 Education shall establish reasonable fees for licenses, renewals, and approvals granted, and for  
47 inspections performed pursuant to this Article.

48 The fees and licenses collected under this section shall be placed in a special fund to be  
49 designated the "Commercial Education Fund" and shall be used under the supervision and  
50 direction of the ~~State Board of Community Colleges~~ State Board of Private Sector

1 Postsecondary Education for the administration of this Article. No license fee shall be refunded  
2 in the event the application is rejected or the license suspended or revoked."

3 **SECTION 7.** G.S. 115D-93 reads as rewritten:

4 "**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial**  
5 **review; grounds.**

6 (a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under  
7 this section shall be made in accordance with Chapter 150B of the General Statutes.

8 (b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke  
9 a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the  
10 General Statutes.

11 (c) The State Board, acting by and through the ~~President of the Community College~~  
12 ~~System, State Board of Private Sector Postsecondary Education,~~ shall have the power to refuse  
13 to issue or renew any such license and to suspend or revoke any such license theretofore issued  
14 in case it finds one or more of the following:

15 (1) That the applicant for or holder of such a license has violated any of the  
16 provisions of this Article or any of the rules promulgated thereunder.

17 (2) That the applicant for or holder of such a license has knowingly presented to  
18 the State Board of Community Colleges false or misleading information  
19 relating to approval or license.

20 (3) That the applicant for or holder of such a license has failed or refused to  
21 permit authorized representatives of the State Board of Community Colleges  
22 to inspect the school, or has refused to make available to them at any time  
23 upon request full information pertaining to matters within the purview of the  
24 State Board of Community Colleges under the provisions of this Article.

25 (4) That the applicant for or holder of such a license has perpetrated or  
26 committed fraud or deceit in advertising the school or in presenting to the  
27 prospective students written or oral information relating to the school, to  
28 employment opportunities, or to opportunities for enrollment in other  
29 institutions upon completion of the instruction offered in the school.

30 (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo  
31 contendere or has been found guilty of a crime involving moral turpitude by  
32 a judge or jury in any state or federal court.

33 (6) That the applicant or licensee has failed to provide or maintain premises,  
34 equipment or conditions which are adequate, safe and sanitary, in  
35 accordance with such standards of the State of North Carolina or any of its  
36 political subdivisions, as are applicable to such premises and equipment.

37 (7) That the licensee is employing teachers, supervisors or administrators who  
38 have not been approved by the State Board, acting by and through the  
39 ~~President of the Community College System, State Board of Private Sector~~  
40 Postsecondary Education.

41 (8) That the licensee has failed to provide and maintain adequate premises,  
42 equipment, materials or supplies, or has exceeded the maximum enrollment  
43 for which the school or class was licensed.

44 (9) That the licensee has failed to provide and maintain adequate standards of  
45 instruction or an adequate and qualified administrative, supervisory or  
46 teaching staff.

47 (10) That the applicant for or a holder of a license has failed to provide a required  
48 bond or bond alternative.

49 (11) That the applicant for or holder of a license has failed to pay assessments  
50 into the Student Protection Fund."

51 **SECTION 8.** G.S. 115D-95 reads as rewritten:

1 **"§ 115D-95. Bonds required.**

2 (a) Requirement. – An applicant for a license must comply with the bond requirements  
3 in this section. The bond covers the potential loss by students of the school of prepaid tuition  
4 and other payments made by them to a school licensed under this Article by reason of the  
5 school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal  
6 of a school's license, bankruptcy, or foreclosure.

7 (b) Amount. – An applicant for a license must file a bond with the ~~North Carolina State~~  
8 ~~Board of Community Colleges~~ State Board of Private Sector Postsecondary Education executed  
9 by the applicant as a principal and by a bonding company authorized to do business in this  
10 State. The bond must be payable to the ~~State Board of Community Colleges~~, State Board of  
11 Private Sector Postsecondary Education, must be conditioned on fulfillment of the school's  
12 obligations, and must remain in effect until cancelled by the bonding company. The bonding  
13 company may cancel the bond upon 30 days' notice to the ~~State Board of Community Colleges~~.  
14 State Board of Private Sector Postsecondary Education.

15 The application must set out calculations made by the applicant to determine the amount of  
16 bond required with the application. The required amount is determined as follows:

- 17 (1) Initial licensure. – For an applicant for initial licensure of a school, the bond  
18 amount is the amount determined by the State Board of Private Sector  
19 Postsecondary Education that is adequate to provide indemnification to any  
20 student, or the student's parent or guardian who has suffered a loss of tuition,  
21 fees, or any other instructional-related expenses paid to the school. A bond  
22 amount shall be at least twenty-five thousand dollars (\$25,000).
- 23 (2) First four renewals. – For a school that has been licensed for one year but  
24 less than six years, the bond shall be in an amount equal to the greatest  
25 amount of unearned paid tuition in the school's possession at anytime during  
26 the prior fiscal year. The bond amount shall be evaluated by the school  
27 quarterly and reported to the State Board of Private Sector Postsecondary  
28 Education or its representative. A quarterly evaluation requiring an increase  
29 of five percent (5%) or more in the amount of the bond held by the school  
30 shall require an immediate increase in the bond amount. Bond amounts also  
31 shall be evaluated pursuant to this subdivision and the rules of the State  
32 Board of Community Colleges at the time of the school's annual license  
33 renewal and increased if necessary regardless of the amount of the change.
- 34 (3) Schools in operation more than five years. – A guaranty bond shall be  
35 required for license renewal for a school that has been continuously licensed  
36 to operate for more than five years in the State, as follows:
- 37 a. If the balance of the Student Protection Fund in G.S. 115D-95.1 is  
38 below the catastrophic loss amount, the school shall file a guaranty  
39 bond in an amount equal to the maximum amount of prepaid tuition  
40 held by the school during the prior fiscal year multiplied by the  
41 percentage amount the fund is deficient.
- 42 b. If the school held prepaid tuition in excess of the Student Protection  
43 Fund catastrophic loss amount during the prior fiscal year, in  
44 addition to any bond amount required by sub-subdivision a. of this  
45 subdivision, the school shall file a guaranty bond for the difference  
46 between the prepaid tuition amount held in the previous fiscal year  
47 and the Fund catastrophic loss amount.

48 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond  
49 from the State Board of ~~Community Colleges~~ Private Sector Postsecondary Education and  
50 approval of one of the guaranty bond alternatives set forth in this subsection. With the approval  
51 of the State Board, an applicant may obtain in lieu of a bond:



- 1 (1) An assignment of a savings account in an amount equal to the bond required  
 2 (i) which is in a form acceptable to the State Board of ~~Community Colleges;~~  
 3 Private Sector Postsecondary Education; (ii) which is executed by the  
 4 applicant; and (iii) which is executed by a state or federal savings and loan  
 5 association, state bank, or national bank, that is doing business in North  
 6 Carolina and whose accounts are insured by a federal depositors corporation;  
 7 and (iv) for which access to the account in favor of the State of North  
 8 Carolina is subject to the same conditions as for a bond in subsection (b) of  
 9 this section.
- 10 (2) A certificate of deposit (i) which is executed by a state or federal savings and  
 11 loan association, state bank, or national bank, which is doing business in  
 12 North Carolina and whose accounts are insured by a federal depositors  
 13 corporation; and (ii) which is either payable to the State of North Carolina,  
 14 unrestrictively endorsed to the State Board of ~~Community Colleges;~~ Private  
 15 Sector Postsecondary Education; in the case of a negotiable certificate of  
 16 deposit, is unrestrictively endorsed to the State Board of ~~Community~~  
 17 ~~Colleges;~~ Private Sector Postsecondary Education; or in the case of a  
 18 nonnegotiable certificate of deposit, is assigned to the State Board of  
 19 Community Colleges in a form satisfactory to the State Board; and (iii) for  
 20 which access to the certificate of deposit in favor of the State of North  
 21 Carolina is subject to the same conditions as for a bond in subsection (b) of  
 22 this section."

23 **SECTION 9.** G.S. 115D-95.1 reads as rewritten:

24 **"§ 115D-95.1. Student Protection Fund.**

25 (a) Definitions. – As used in this section:

- 26 (1) "Catastrophic loss amount" means the amount of funds required to protect  
 27 prepaid student tuition in case of a large-scale event that would draw against  
 28 the Student Protection Fund. The amount is one million dollars (\$1,000,000).  
 29 (2) "Fund cap amount" means the catastrophic loss amount plus a reserve  
 30 amount. The amount is one million five hundred thousand dollars  
 31 (\$1,500,000).

32 (b) Student Protection Fund. – The Student Protection Fund is established in the  
 33 Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund  
 34 is credited to the Fund. The State Board of ~~Community Colleges~~ Private Sector Postsecondary  
 35 Education administers the Fund. The purpose of the Fund is to compensate students enrolled in  
 36 a proprietary school licensed under this Article who have suffered a loss of tuition, fees, or any  
 37 other instructional-related expenses paid to the school by reason of the failure of the school to  
 38 offer or complete student instruction, academic services, or other goods and services related to  
 39 course enrollment if the school ceases to operate for any reason, including the suspension,  
 40 revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

41 (c) Student Protection Fund Advisory Committee. — ~~The President of the North~~  
 42 ~~Carolina Community College System shall appoint a Student Protection Fund Advisory~~  
 43 ~~Committee. Members of the Committee shall be appointed for terms of three years. The State~~  
 44 ~~Board of Private Sector Postsecondary Education shall serve as the Student Protection~~  
 45 Advisory Committee. The Committee shall advise the State Board of Community Colleges on  
 46 matters related to the Fund, including, but not limited to, the adjustment of the catastrophic loss  
 47 amount and Fund cap amount.

48 ~~The Committee shall consist of seven members as follows:~~

- 49 (1) ~~Three professional staff members of the Community Colleges System~~  
 50 ~~Office.~~

- (2) ~~An owner/director of a proprietary school with less than 100 students, or the owner/director's designee.~~
- (3) ~~An owner/director of a proprietary school with between 100 and 750 students, or the owner/director's designee.~~
- (4) ~~An owner/director of a proprietary school or group of proprietary schools with more than 750 students, or the owner/director's designee.~~
- (5) ~~An owner/director of a proprietary school appointed at large, or the owner/director's designee.~~

(d) Initial Payment. – Prior to its first year of operation in the State, each proprietary school shall pay an initial amount of one thousand two hundred fifty dollars (\$1,250) into the Fund.

(e) Annual Revenue Payment. – Each proprietary school operating in the State shall pay annually into the Fund an amount based on its annual gross tuition revenue generated in the State as follows:

Annual Gross Tuition Revenue	Amount of Assessment
\$1.00 – \$25,000	\$200.00
\$25,001 – \$50,000	\$250.00
\$50,001 – \$100,000	\$300.00
\$100,001 – \$200,000	\$400.00
\$200,001 – \$300,000	\$500.00
\$300,001 – \$400,000	\$600.00
\$400,001 – \$500,000	\$700.00
\$500,001 – \$750,000	\$1,000
\$750,001 – \$1,000,000	\$1,250
\$1,000,001 – \$1,500,000	\$1,500
\$1,500,001 – \$2,000,000	\$2,000
Greater than \$2,000,000	\$2,000 plus one-twentieth of one percent (.05%) of annual gross tuition revenue over \$2,000,000.

(f) Suspension of Payments. – If the Student Protection Fund balance is equal to or exceeds the Fund cap amount, the State Board of ~~Community Colleges~~ Private Sector Postsecondary Education shall suspend payments into the Fund for schools that have been continuously licensed in the State for more than eight years. The State Board of Private Sector Postsecondary Education shall require schools to resume payments into the Fund if the balance of the Fund is less than the catastrophic loss amount.

(g) Catastrophic Assessments. – If claims against the Student Protection Fund exceed the catastrophic loss amount, the State Board of ~~Community Colleges~~ Private Sector Postsecondary Education may assess additional fees to the extent necessary to compensate students qualified for repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by subsection (e) of this section. If the amount of the catastrophic assessment will be insufficient to cover qualified claims, the State Board shall develop a method of allocating funds among claims.

(h) Payment Required for Proprietary School Licensure. – The full and timely payment into the Fund pursuant to this section is a condition of licensure.

(i) Payments Nonrefundable. – No payment to the Student Protection Fund shall be refunded in the event that a school's license application is rejected or a school's license is suspended or revoked.

(j) Student Repayment. – A student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or

1 foreclosure, may qualify for repayments under the Student Protection Fund. The State Board of  
2 Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If  
3 the Student Protection Fund is insufficient to cover the qualified claims, the State Board must  
4 develop a method of allocating funds among claims.

5 (k) Rules. – The State Board of ~~Community Colleges~~ Private Sector Postsecondary  
6 Education shall adopt rules for the implementation of this section."

7 **SECTION 10.(a)** Effective July 1, 2011, two positions in the Community Colleges  
8 System Office of Proprietary Schools shall be terminated.

9 **SECTION 10.(b)** The State Board of Private Sector Postsecondary Education shall  
10 have fiduciary responsibility for the Commercial Education Fund beginning January 1, 2012.

11 **SECTION 11.(a)** Appointments to the State Board of Private Sector Postsecondary  
12 Education may be made on or after the day this act becomes law. The State Board of Private  
13 Sector Postsecondary Education may meet after all appointments have been made.

14 **SECTION 11.(b)** The State Board of Private Sector Postsecondary Education may,  
15 with the approval of the State Board of Community Colleges, establish operations for the State  
16 Board of Private Sector Postsecondary Education and the Office of Private Sector  
17 Postsecondary Education prior to January 1, 2012. The State Board of Community Colleges  
18 may authorize the use of funds from the Commercial Education Fund for this purpose.

19 **SECTION 12.** Section 10(a) of this act becomes effective July 1, 2011. Section 11  
20 of this act is effective when this act becomes law. The remainder of this act becomes effective  
21 January 1, 2012.