

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-369
HOUSE BILL 942**

AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

The General Assembly of North Carolina enacts:

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

"Chapter 74F.
"Locksmith Licensing Act.

"§ 74F-1. Short title.

This act shall be known as the North Carolina Locksmith Licensing Act.

"§ 74F-2. Purpose.

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare.

"§ 74F-3. Licenses required.

No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. A violation of this section is a Class 3 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment.

"§ 74F-4. Definitions.

The following definitions apply in this Chapter:

- (1) Board. – The North Carolina Locksmith Licensing Board.
- (2) Code book. – A compilation, in any form, of key codes and combinations.
- (3) License. – A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.
- (4) Locksmith. – A person who has been issued a license by the Board.
- (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.
- (6) Locksmith tools. – Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.

"§ 74F-5. North Carolina Locksmith Licensing Board.

(a) Composition and Terms. – The Board shall consist of nine members who shall serve staggered terms. Three members shall represent the public. The initial Board members shall be appointed on or before January 1, 2002, as follows:

- (1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three locksmiths, two of whom shall serve terms of four years and one of whom shall serve a term of

- three years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint three locksmiths, one of whom shall serve a term of four years, one of whom shall serve a term of three years, and one of whom shall serve a term of two years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.
 - (3) The Governor shall appoint three public members, one of whom shall serve a term of three years and two of whom shall serve terms of two years.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive terms.

(b) Qualifications. – The locksmith members shall have at least five years' experience in locksmith services and shall be engaged in that business for the duration of their term on the Board. The locksmith members initially appointed to the Board shall immediately become licensed as locksmiths by complying with the provisions of this Chapter. Public members of the Board shall not be trained or experienced in locksmith services, have a financial interest in a locksmith business, or be the spouse of a person who is so trained or experienced or has such an interest. All members of the Board shall reside in this State and shall represent various geographical areas of the State.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms in seats appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(e) Compensation. – Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually during the first meeting of the calendar year by the Board for one-year terms and shall serve until their successors are elected and qualified.

(g) Meetings. – The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for issuing licenses under this Chapter. The Board shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of Board members shall constitute a quorum.

"§ 74F-6. Powers of the Board.

The Board shall have the power and duty to:

- (1) Administer and enforce the provisions of this Chapter.
- (2) Adopt rules as may be necessary to carry out the provisions of this Chapter.
- (3) Examine and determine the qualifications and fitness of applicants for licensure and renewal of licensure.
- (4) Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary actions authorized by this Chapter.
- (5) Set fees as provided in G.S. 74F-9.
- (6) Establish and approve continuing education requirements for persons licensed under this Chapter.
- (7) Receive and investigate complaints from members of the public.

- (8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining licensees exist.
- (9) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.
- (10) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.
- (11) Maintain a list of the names and addresses of all persons licensed by the Board.
- (12) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.
- (13) Adopt and publish a code of ethics.
- (14) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.

"§ 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.
- (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.

"§ 74F-8. Licensure based on experience; licensure of nonresident; reciprocity.

(a) The Board may grant, upon application and payment of proper fees, a license to a person who resides in this State and has at least three years' experience as a licensed locksmith in another state whose standards of competency are substantially equivalent to those provided in this Chapter.

(b) The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this Chapter or the person resides in a state that recognizes licenses issued by the Board.

"§ 74F-9. Fees.

The Board shall establish fees not exceeding the following amounts:

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| (1) | <u>Issuance of a license</u> | <u>\$100.00</u> |
| (2) | <u>Renewal of a license</u> | <u>\$100.00</u> |
| (3) | <u>Examination</u> | <u>\$200.00</u> |
| (4) | <u>Reinstatement</u> | <u>\$150.00</u> |
| (5) | <u>Late fees</u> | <u>\$150.00.</u> |

"§ 74F-10. Issuance, renewal, replacement, and transfer of licenses.

(a) The Board shall issue a license, upon payment of the license fee, to any applicant who has satisfactorily met the requirements of this Chapter as administered by the Board. Licenses shall show the full name of the person and an identification number and shall be signed by the chair and one other officer of the Board.

(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9.

(c) The Board shall replace any license that is lost, destroyed, or mutilated subject to rules established by the Board.

(d) A license may not be transferred or assigned.

"§ 74F-11. Photo identification.

Every person licensed under this Chapter shall be issued a photo identification card by the Board. The card shall display a current photograph of the person, the person's

name, address, and telephone number. The licensee shall have the photograph identification card available for inspection while performing locksmith services.

"§ 74F-12. Posting licenses; advertisements.

(a) Every locksmith issued a license under this Chapter shall display the license prominently in the locksmith's place of business.

(b) Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.

"§ 74F-13. Responsibilities of employers.

Every licensee under this Chapter shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section.

"§ 74F-14. Customer identification.

When opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property.

"§ 74F-15. Disciplinary procedures.

The Board may deny or refuse to renew, suspend, or revoke a license if the licensee 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.
- (3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.
- (4) Has willfully violated any of the provisions of this Chapter.

"§ 74F-16. Exemptions.

The provisions of this Chapter do not apply to:

- (1) An employee of a licensed locksmith when acting under the control and supervision of the licensed locksmith.
- (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.
- (3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the General Statutes, when acting within the scope and course of the alarm systems license or registration.
- (4) An employee of a towing service, a reposessor, 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.
- (5) A property owner, or the owner's employee, when providing locksmith services on the property owner's property, so long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this section, 'property' means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, and residential rental property.
- (6) A merchant, or retail or hardware store, when it lawfully duplicates keys or installs, services, repairs, rebuilds, reprograms, rekeys, or

- maintains locks in the normal course of its business, so long as the merchant or store does not represent itself as a locksmith.
- (7) A member of a law enforcement agency, fire department, or other government agency who, when acting within the scope and course of the member's employment with the agency or department, opens locked doors to vehicles, homes, or businesses.
 - (8) A salesperson while demonstrating the use of locksmith tools to persons licensed under this Chapter.
 - (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.
 - (10) A person or business when lawfully installing or maintaining a safety lock device on a wastewater system when the safety lock device is required by permit or requested by the owner of the wastewater system, provided the person or business does not represent itself as a locksmith. For purposes of this subdivision, 'wastewater system' has the same meaning as in G.S. 130A-334.
 - (11) Any person or firm that sells gun safes or locking devices for firearms when acting within the scope and course of the sale of gun safes or locking devices for firearms.
 - (12) A person while performing a locksmith service in an emergency situation without receiving any compensation for this service and who does not advertise those services.

"§ 74F-17. Injunctions.

The Board may apply to the superior court for an order enjoining violations of this Chapter. Upon a showing by the Board that any person has violated this Chapter, the court may grant injunctive relief."

SECTION 2. Any person who submits proof to the Board that the person has been actively engaged as a locksmith in this State for at least two consecutive years prior to the effective date of this act and pays the required fee for the issuance of a license under G.S. 74F-9, enacted by Section 1 of this act, shall be licensed without having to satisfy the requirements of G.S. 74F-7(3), enacted by Section 1 of this act. All persons who do not make application to the Board within one year of the effective date of this act shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F, enacted by Section 1 of this act.

SECTION 3. G.S. 74F-5 and G.S. 74F-6, as enacted in Section 1 of this act, and Section 3 of this act are effective when the act becomes law. The remainder of the act becomes effective July 1, 2002.

In the General Assembly read three times and ratified this the 9th day of August, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:08 p.m. this 16th day of August, 2001