

23 NCAC 03A .0101 is proposed for amendment as follows:

23 NCAC 03A .0101 DEFINITIONS AND APPLICATION FOR INITIAL LICENSE

(a) Classes or schools conducted by employers for their own employees are exempt from the provisions of this Subchapter. Employers may contract with third party agencies to provide training for their employees. Schools or classes conducted by third party agencies for an employer to train his employees are exempt from the provisions of this Subchapter.

~~(a)~~(b) The following terms shall have the following meaning in this Subchapter unless the context of a specific rule requires a different interpretation.

~~(1) "Proprietary school" means any proprietary business school, proprietary trade school, proprietary technical school, or correspondence school which:~~

~~(A) offers postsecondary education or training for profit or for a tuition charge or offers classes for the purpose of teaching, for profit or for a tuition charge, any program of study or teaching one or more of the courses or subjects needed to train and educate an individual for employment; and,~~

~~(B) has any physical presence within the State of North Carolina; and,~~

~~(C) is privately owned and operated by an owner, partnership or corporation.~~

(1) "Catastrophic loss amount" means the amount of funds required to protect prepaid student tuition in case of a large-scale event that would draw against the Student Protection Fund. The amount is one million dollars (\$1,000,000).

(2) "Classes or schools" as stated in G.S. 115D-88(4a) means classes or schools, which are offered by the seller of the equipment or the seller's agent.

(3) "Equipment" as stated in G.S. 115D-88 includes software.

~~(4) "Classes or schools" conducted by employers for their own employees are exempt. Employers may contract with third part agencies to provide training for their employees. Schools or classes conducted by third party agencies for an employer to train his employees are exempt.~~

(4) "Five or fewer students" as stated in G.S. 115D-88(4b) means the total number of students at the time of maximum enrollment during any term.

~~(5) "Users" as defined in G.S. 115D 88(4a) means employees or agents of purchasers.~~

(5) "Fund cap amount" means the catastrophic loss amount plus a reserve amount. The fund cap amount is one million five hundred thousand dollars (\$1,500,000).

~~(6) "Five or fewer students" as stated in G.S. 115D 88(4b) means total number of students at the time of maximum enrollment during any term.~~

(6) "Proprietary school" means any business school, trade school, technical school, or correspondence school which:

(A) offers postsecondary education or training for profit or for a tuition charge or offers classes for the purpose of teaching, for profit or for a tuition charge, any program of study or teaching one or more of the courses or subjects needed to train and educate an individual for employment; and,

(B) has any physical presence within the State of North Carolina; and,

(C) is privately owned and operated by an owner, partnership or corporation.

(7) "Remote sites" means approved instructional environments in the same county that do not have any administrative staff or administrative functions such as recruiting, accounting and record keeping taking place.

(8) "Reserve amount" means the difference between the catastrophic loss amount and the fund cap amount. Its purpose is to reduce the possibility of the Student Protection Fund being completely depleted. The reserve amount is five hundred thousand dollars (\$500,000).

(9) "Student Protection Fund" is a statewide fee-supported fund. The purpose of the Student Protection Fund is to compensate students enrolled in a proprietary school licensed under G.S. 115D-90 who have suffered a loss of tuition, fees, or any other instruction-related expenses paid to the school by reason of the failure of the school to offer or to complete student instruction, academic services, or other goods and services related to course enrollment. Students are eligible to be compensated under the Student Protection Fund only if the school ceases to operate for any reason, including, but not limited to the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(10) "Users" as stated in G.S. 115D-88(4a) means employees or agents of purchasers.

~~(b)~~(c) Application for an Initial License:

(1) Any person or persons operating a proprietary school with an enrollment of more than five persons in a school in the State of North Carolina shall obtain a license from the North Carolina State Board of Community Colleges except as exempt by G.S. 115D-88.

(2) ~~A preliminary application shall be submitted~~Any person or persons seeking to operate a proprietary school that requires licensure shall submit a preliminary application setting forth the proposed location of the school, the qualifications of the Chief Administrator of the school, a description of the facilities available, courses to be offered, and financial resources available to equip and maintain the school. Upon approval of the preliminary application, a final application may be submitted. ~~This~~The final application shall be verified and accompanied by the following:

(A) ~~A certified~~A check or money order for the initial license fee in the amount of two thousand five hundred dollars (\$2,500) made payable to the North Carolina State Treasurer;

(B) A guaranty bond or alternative to a guaranty bond as set forth in G.S. 115D-95. Except as otherwise provided herein, the bond amount for a proprietary school shall be at least equal to the maximum amount of prepaid tuition held at any time during the fiscal year.

1 During the initial year of operation, the ~~bond-guaranty bond amount~~ or an alternative to a
 2 guaranty bond amount shall be based on the projected maximum amount of prepaid
 3 tuition that will be held at any time during that year. In any event, the minimum surety
 4 bond shall be ~~ten thousand dollars (\$10,000);~~ twenty five thousand dollars (\$25,000);

5 ~~(C)~~ (C) A check or money order for the Student Protection Fund in the amount of one thousand
 6 two hundred and fifty dollars (\$1,250) made payable to the North Carolina State
 7 Treasurer;

8 ~~(C)(D)~~ (D) A copy of the school's catalog or bulletin. The catalog shall include a statement
 9 addressing each item listed in G.S. 115D-90(b)(7);

10 ~~(D)(E)~~ (E) A financial statement showing capital investment, assets and liabilities, and the proposed
 11 operating budget which demonstrates financial stability or a financial statement and an
 12 accompanying opinion of the school's financial stability by either an accountant, using
 13 generally accepted accounting principles, or a lending institution;

14 ~~(E)(F)~~ (F) A detail of ownership; (This must show stock distribution if the school is a corporation,
 15 or partnership agreement if the school will be operated as a partnership.)

16 ~~(F)(G)~~ (G) Information on all administrative and instructor personnel who will be active in the
 17 operation of the school, either in full- or part-time capacity; (This information must be
 18 submitted on forms provided for this purpose.)

19 ~~(G)(H)~~ (H) Enrollment application or student contract form;

20 ~~(H)(I)~~ (I) School floor plan showing doors, windows, halls, and seating arrangement; also offices,
 21 rest rooms, and storage space; the size of each room and seating capacity shall be clearly
 22 marked for each classroom; lighting showing kind and intensity shall be indicated for
 23 each room; the type of heating and cooling system used for the space occupied shall be
 24 stated;

25 ~~(I)(J)~~ (J) Photostatic copies of inspection reports or letters from proper officials to show that the
 26 building is safe and sanitary and meets all local city, county, municipal, state, and federal
 27 regulations such as fire, building, and sanitation codes; and

28 ~~(J)(K)~~ (K) If the building is not owned by the school, a photostatic copy of the lease held by the
 29 school for the space occupied.

30 (3) A person or persons purchasing a proprietary school already operating as a licensed school shall
 31 comply with all of the requirements for securing an initial license. A license is not transferable to
 32 a new owner. All application forms and other data shall be submitted in full. Such terms as
 33 "previously submitted" when referring to a former owner's file are not acceptable. If a proprietary
 34 school offers classes in more than one county, the school's operations in each such county
 35 constitutes a separate school requiring a separate license. Classes conducted by the school in

1 separate locations shall be reported and approved prior to advertising and commencement of
2 classes.

3 (4) Remote sites shall not have any administrative staff or any administrative functions such as
4 recruiting, accounting or record keeping. Each remote site shall be subject to an initial remote site
5 fee of one thousand dollars (\$1,000) and an annual remote site renewal fee of seven hundred and
6 fifty dollars (\$750.00) to be paid by a ~~certified~~ check or money order made payable to the North
7 Carolina State Treasurer. Each remote site shall have an initial site visit and a visit during each
8 annual audit.

9 (5) Classes conducted at remote sites by licensed schools shall be approved prior to advertising and
10 commencement of classes. Any course offered at a remote site shall be a part of an approved
11 program of study for that licensed school.

12 (6) Changes in application information presented for licensure or relicensure relating to mission,
13 programs, location or stock distribution require prior approval and licensure amendment by the
14 State Board of Community Colleges.

15 (A) Program additions require curriculum reviews and program or course approvals prior to
16 initiation. A ~~certified~~ check or money order in the amount of two hundred dollars
17 (\$200.00) made payable to the North Carolina State Treasurer shall accompany each
18 additional program approval request.

19 (B) Single course additions or revisions may be individually approved when schools submit a
20 request for license amendment. Course additions or revisions requiring curriculum
21 review, instructor evaluation, and equipment site assessment are subject to the curriculum
22 review fee of two hundred dollars (\$200.00) to be paid by a ~~certified~~ check or money
23 order made payable to the North Carolina State Treasurer.

24 (C) School relocations require site visits and approvals prior to use. A ~~certified~~ check or
25 money order in the amount of four hundred dollars (\$400.00) made payable to the North
26 Carolina State Treasurer shall accompany each site relocation approval request.

27 (D) Other site assessment visits, such as for program additions and revisions, shall require a
28 ~~certified~~ check or money order made payable to the North Carolina State Treasurer in the
29 amount of two hundred dollars (\$200.00).

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31 *History Note:* Authority G.S. 115D-88; 115D-89; 115D-90; 115D-91; 115D-92; 115D-95.1;
32 Eff. September 1, 1993;
33 Amended Eff. April 1, 2010; August 13, 2005; December 1, 2004.