

REQUEST FOR TECHNICAL CHANGE

AGENCY: Locksmith Licensing Board

RULE CITATION: All rules submitted

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On every Submission for Permanent Rule form:

- *In Box 6, please insert the link to the agency notice. You published in the Register that it was www.nclocksmithboard.org*

On every Rule:

- *In the Introductory Statement for each Rule, please remove the "proposed to be" and state "21 NCAC 29 XXXX is amended ..."*
- *For any rule where you make a change to the text in response to these Requests for Technical Changes or the text differs from that published in the NC Register, state "...amended with changes as published in..."*
- *Please insert an effective date in the History Note for every rule. As you published a proposed effective date of January 1, 2019, it should not be any earlier than that.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 25, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: Locksmith Licensing Board

RULE CITATION: 21 NCAC 29 .0404

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

What authority are you relying upon to establish the fee on lines 7-8? Is it G.S. 74F-10? Or are you relying upon G.S. 150B-19.1(5)(b)? Please update your History Note accordingly.

Assuming you have authority, on line 7, replace "are" with "shall be" and is it written request to the Board?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2018

1 **21 NCAC 29 .0404 FEES is proposed to be amended with changes as published in 33:02 NCR 105-107**
2 **as follows:**

3
4 **21 NCAC 29 .0404 FEES**
5 The license issuance fee shall be ~~one~~two hundred dollars ~~(\$100.00)-(\$200.00)~~. The license issuance fee shall
6 accompany the application for licensure. In the event the applicant is denied licensure, the fee shall be refunded.
7 Replacement licenses are available upon written request and the fee for issuance of a replacement license shall be
8 ten dollars (\$10.00).

9
10 *History Note: Authority G.S. 74F-6; 74F-7; 74F-9;*
11 *Temporary Adoption Eff. October 17, 2002;*
12 *Eff. August 1, 2004;*
13 *Readopted Eff. June 1, 2017.*

14 4474615

REQUEST FOR TECHNICAL CHANGE

AGENCY: Locksmith Licensing Board

RULE CITATION: 21 NCAC 29 .0502

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please insert page numbers in this Rule as it is more than one page. Also, please reset the line numbers on each Page at 1. [See Rule 26 NCAC 02C .0108(1)(f) and (h)]

In (f), line 32, replace "which" with "that"

And where will these be registered? With the Board or the Secretary of State?

Line 33, what are "documents related to locksmith services"?

On line 34, why is "Locksmith" capitalized?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2018

1 **21 NCAC 29 .0502 FAIR BUSINESS PRACTICES is proposed to be amended with changes as**
2 **published in 33:02 NCR 105-107 as follows:**

3
4 **21 NCAC 29 .0502 FAIR BUSINESS PRACTICES**

5 (a) Locksmiths shall conduct all business in compliance with all applicable local, State, and federal laws.

6 (b) Locksmiths shall analyze security problems and advance the best practicable solution for the protection of the
7 client.

8 (c) Locksmiths shall refrain from associating themselves with or allowing the use of their name (personal or
9 professional) by any enterprise that in any way supports fraud or misrepresentation.

10 (d) Locksmiths shall not misrepresent the features of any product or service they offer. Examples include the
11 following:

12 (1) Representing to a client that non-restricted or widely available keys (whether stamped "Do Not
13 Duplicate" or not) provide any measure of assurance against unauthorized duplication; or

14 (2) Selling a used product as new.

15 (e) Locksmiths shall avoid using any improper means of soliciting business. Examples of prohibited practices
16 include:

17 (1) Affixing stickers to permanent fixtures such as doors or door frames or in any way defacing the
18 property of any person without his or her express written consent.

19 (2) Installing stickers or any other promotions in such fashion that they falsely represent that the
20 locksmith or company has previously serviced the hardware in that location.

21 (3) Installing or supplying hardware that curtails the customer's ability to choose a different company
22 or technician for product support or service, unless the locksmith obtains the customer's express
23 written consent.

24 (4) Modifying the customer's hardware in any fashion that will curtail the customer's ability to choose
25 a different company or technician for later product support or service or cause him or her to incur
26 additional expense by doing so, unless the locksmith obtains the customer's express written
27 consent.

28 (5) Direct solicitation in violation of a non-compete agreement, such as an employee offering
29 competing bids to customers of his or her employer.

30 (6) Using a name in advertising that is similar enough to a competitor's name to cause confusion
31 among consumers.

32 (f) Locksmiths shall register the business name(s) which they utilize to engage in locksmith services. All
33 advertising for locksmith services and documents related to locksmith services in North Carolina shall be in the
34 registered name(s) of the licensed Locksmith.

35
36 *History Note: Authority G.S. 74F-6;*

37 *Temporary Adoption Eff. August 13, 2002;*

1 *Eff. August 1, 2004;*
2 *Readopted Eff. June 1, 2017.*
3 4474496

REQUEST FOR TECHNICAL CHANGE

AGENCY: Locksmith Licensing Board

RULE CITATION: 21 NCAC 29 .0701

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 7, what are the contents of this form? G.S. 150B-2(8a)(d) requires that the substantive contents of forms be within rule or law. Where are these contents set forth?

On line 8, delete "required" It is unnecessary, as the Rule itself sets requirements.

In (1), preceding what? The date of the application?

In (2), what is your authority for this amendment to have staff conduct the background check? G.S. 74F-6(16) states:

§ 74F-6. Powers of the Board

The Board shall have the power and duty to:

(16) Request that the Department of Public Safety conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to [G.S. 143B-946](#).

G.S. 143B-946 states:

§ 143B-946. Criminal record checks of applicants for locksmith licensure or apprentice designation

The Department of Public Safety 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 Public Safety 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 Public Safety. 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

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of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety 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.

Are you relying upon G.S. 74F-18? If so, please add that to your History Note.

Even so, Section (b) of that law 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 Public Safety 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 Public Safety. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Public Safety and shall remit the fees to the Department of Public Safety for expenses associated with conducting the criminal history record check.

It appears that your statute requires use of DPS to conduct this check, not Board staff.

If you do have authority for this change, what is contained in this consent? Is it required to be signed? Is it a form provided by the Board?

In (3), line 16, define “complete” and “truthful”

Beginning on line 16, and then on lines 18, 19, and 21, please be sure to underline the new numbers. For example “(4) (3)” As you published this correctly in the Register, you do not need to show this as a change; simply do it.

On line 16, what do you mean by “affirmative responses”? You refer to “employment history” so does every job held require an explanation?

Line 17, please insert a comma after “history”

In (4), I am simply asking – the Board does not accept credit card payments?

In (5), line 19, is the equivalent of the DD-214 known to your regulated public?

Line 20, what is “actively served”? Does your regulated public know?

Line 20, state “his or her” Or state “since the last license was granted.”

End line 20 with an “and” assuming you require all of these to be submitted.

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In (6), line 21, where in Rule or law has the Board specified this format? If it has not done this previously, it needs to be set forth here.

Line 21, why is "Continuing Education" capitalized? The term is not capitalized in Rule .0703.

Line 23, please insert a comma after "hours"

Line 23, delete or define "brief"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2018

1 **21 NCAC 29 .0701 APPLICATION FORM is proposed to be amended with changes as published in**
2 **33:02 NCR 105-107 as follows:**

3
4 **SECTION .0700 – LICENSE RENEWAL REQUIREMENTS**
5

6 **21 NCAC 29 .0701 APPLICATION FORM**

7 All applications for license renewal shall be submitted on the form provided by the Board for this purpose and shall be
8 accompanied by the following required items:

- 9 (1) two frontal photos of the applicant's face, taken within the preceding three months, size one inch by
10 one inch;
- 11 (2) consent to the performance of a nationwide criminal history check to be performed by Board
12 staff; criminal history report, certified by the law enforcement agency or clerk of court in the
13 applicant's county of residence;
- 14 (3) ~~a criminal history report, certified by the law enforcement agency or clerk of court in the applicant's~~
15 ~~county of employment, if different from the county of residence;~~
- 16 (4)(3) complete and truthful explanations of affirmative responses to questions on the application regarding
17 employment history, criminal history and military service, if applicable;
- 18 (5)(4) payment in full of all applicable fees, by check or money order;
- 19 (6)(5) a copy of the applicant's military discharge document (DD-214 or equivalent) if the applicant has
20 actively served in the military since applying for his previously granted license;
- 21 (7)(6) a log, in a format specified by the Board, of Continuing Education hours earned during the previous
22 license period, including the sponsor of the program or course, the name of the instructor or lecturer,
23 the date, the number of hours and a brief description of the subject matter included in the course or
24 program.

25
26 *History Note: Authority G.S. 74F-6; 74F-10;*
27 *Eff. February, 1, 2005;*
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2,*
29 *2016.*
30

31 4474607

REQUEST FOR TECHNICAL CHANGE

AGENCY: Locksmith Licensing Board

RULE CITATION: 21 NCAC 29 .0802

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, Box 7, please remove the date regarding the submission for consultation, as this Rule does not establish a fee.

In the Introductory Statement in the Rule, please delete "with changes" as you did not make any changes to this Rule from the version published in the Register, and I doubt you will make any changes to the text of the Rule in response to this Request.

In (a)(2)(A), (B), and (C), I take it you need to retain "at least" here?

In (b), what does the phrase "technical and professional subject" mean? I take it this term is known to your regulated public?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2018

1 **21 NCAC 29 .0802 REQUIREMENTS is proposed to be amended with changes as published in 33:02**
2 **NCR 105-107 as follows:**

3
4 **21 NCAC 29 .0802 REQUIREMENTS**

5 (a) Every licensee shall obtain ~~24~~16 contact hours of continuing education during each 3-year renewal cycle,
6 except:

- 7 (1) Persons exempted from eight contact hours in Rule .0805 of this Section; and
8 (2) Persons who:
9 (A) are at least 62 years of age;
10 (B) have at least 15 years of experience as locksmiths;
11 (C) have been North Carolina licensed locksmiths for at least nine years; and
12 (D) are not subject to an investigation by the Board.

13 (b) The contact hours of continuing education shall be in technical and professional subjects related to the practice
14 of locksmithing.

15 (c) Licensees shall not carry forward any contact hours of continuing education into the subsequent renewal period.

16 (d) Licensees shall verify completion of the contact hours of continuing education for the previous license period on
17 their application for license renewal.

18
19 *History Note: Authority G.S. 74F-6;*
20 *Eff. February 1, 2005;*
21 *Amended Eff. April 1, 2012;*
22 *Readopted Eff. June 1, 2017.*

23
24 4474622