

1 14B NCAC 16 .0804 was proposed for readoption in 33:15 NCR 1544 but is now repealed as follows:

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3 **14B NCAC 16 .0804 INVESTIGATION/ARMED SECURITY GUARD FIREARM REGISTRATION**
4 **PERMIT**

5 ~~(a) After the administrator receives a complete application for registration, the administrator may cause to be made~~
6 ~~such further investigation of the applicant as deemed necessary.~~

7 ~~(b) Any denial of an applicant for registration by the administrator shall be subject to review by the Board.~~

8
9 *History Note: Authority G.S. 74C-5;*

10 *Eff. June 1, 1984;*

11 *Transferred and Recodified from 12 NCAC 07D .0804 Eff. July 1, 2015;*

12 *Repealed Eff. December 1, 2019.*



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 19, 2019

Jeff Gray, Rulemaking Coordinator
Private Protective Services Board
Sent via email only: jgray@bdixon.com

Re: Objection to Rules 14B NCAC 16 .0804, .0901, and .0909
Extension of the Period of Review of 14B NCAC 16 .0110, .0805, .0806, .0807,
.0808, .0809, .0904, and .0906.

Dear Mr. Gray:

At its meeting today, the Rules Review Commission objected to Rules 14B NCAC 16 .0804, .0901, and .0909 in accordance with G.S. 150B-21.10.

The Commission objected to Rule 14B NCAC 16 .0804 for lack of statutory authority and ambiguity. Specifically, the Commission found that Paragraph (a) of the Rule states that there shall be "such further investigation of the applicant as deemed necessary." The Rule does not say who will deem the investigation necessary, nor how the necessity will be determined. The Commission found that this language was ambiguous.

In Paragraph (b), the Rule states that any denial of the registration by the Director will be subject to review of the Board. However, G.S. 74C-13(f) requires the Board to determine whether to issue or deny an applicant for a firearm registration permit. The agency did not cite to any authority for the Director to issue a denial such that it is reviewable by the Board, nor any authority of the Board to delegate this decision. Therefore, the Commission found that the agency lacks statutory authority for this Paragraph.

The Commission objected to Rules 14B NCAC 16 .0901 and .0909 for lack of statutory authority. Specifically, both rules require applicants seeking licensure pursuant to G.S. 93B-15.1 (military trained applicants and spouses of those individuals) to submit application fees. The assessment of an application fee against those individuals is forbidden by G.S. 93B-15.1(k). The Commission found that the agency does not have authority to charge these fees in either rule.

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

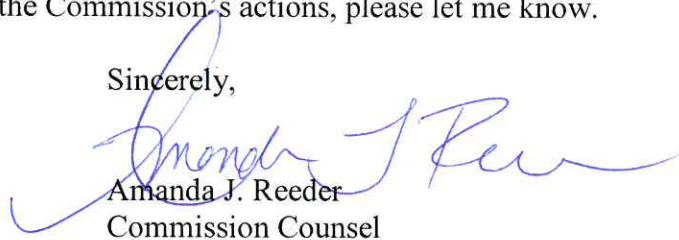
Please respond to the objections in accordance with the provisions of G.S. 150B-21.12.

In addition, the Rules Review Commission extended the period of review for 14B NCAC 16 .0110, .0805, .0806, .0807, .0808, .0809, .0904, and .0906 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the Requests for Technical Changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Phillip Stephenson
Charles McDarris

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0804

DEADLINE FOR RECEIPT: Friday, September 13, 2019

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a), line 5, who is the "administrator"? Should this be changed to "Director" to address the change to G.S. 74C-6 made by SL 2001-487(64.)(b)?

On line 5, what is "complete" here? Are the requirements of the application in another rule or law?

In the History Note, line 12, state "Readopted Eff."

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: August 30, 2019

1 14B NCAC 16 .0804 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0804 INVESTIGATION/ARMED SECURITY GUARD FIREARM REGISTRATION**
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5 (a) After the administrator receives a complete application for registration, the ~~administrator~~ Director may cause to be
6 made such further investigation of the applicant as deemed necessary.

7 (b) Any denial of an applicant for registration by the ~~administrator~~ Director shall be subject to review by the Board.

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9 *History Note: Authority G.S. 74C-5;*

10 *Eff. June 1, 1984;*

11 *Transferred and Recodified from 12 NCAC 07D .0804 Eff. July 1, ~~2015~~. 2015;*

12 *Amended Eff. October 1, 2019.*