

FIRST REGULAR SESSION

SENATE BILL NO. 246

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time January 9, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1042S.011

AN ACT

To repeal sections 374.700, 374.715 and 374.755, RSMo 2000, relating to the regulation and licensing of certain professions, and to enact in lieu thereof thirty-six new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 374.700, 374.715 and 374.755, RSMo 2000, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 324.1050, 324.1052, 324.1054, 324.1056, 324.1058, 324.1060, 324.1062, 324.1064, 324.1065, 324.1066, 324.1068, 324.1070, 324.1072, 324.1074, 324.1076, 324.1078, 324.1080, 324.1082, 324.1084, 374.695, 374.700, 374.702, 374.704, 374.715, 374.717, 374.755, 374.764, 374.782, 374.783, 374.784, 374.785, 374.786, 374.787, 374.788, 374.789 and 590.132, to read as follows:

324.1050. As used in sections 324.1050 to 324.1084, the following terms mean:

(1) "Board", the board of licensed private investigator examiners established in section 324.1052;

(2) "Client", any person who engages the services of a private investigator;

(3) "Department", the department of public safety;

(4) "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;

(5) "Licensed private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the licensed private investigator business;

(6) "Licensed private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the licensed private investigator

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

business;

(7) "Licensed private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information with reference to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person or for service of process while carrying a firearm;

(c) The location, disposition or recovery of lost or stolen property;

(d) The cause or responsibility for fires, libels, losses, accidents or damage or injury to persons or to property or personal protection of life or property; or

(e) Securing evidence to be used before any court, board, officer or investigating committee;

(8) "Organization", a corporation, trust, estate, partnership, cooperative or association;

(9) "Person", an individual or organization.

324.1052. 1. The "Board of Licensed Private Investigator Examiners" is hereby created within the department of public safety. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of six members appointed by the governor with the advice and consent of the senate. One member of the board shall be a licensed attorney, and one member shall be a public member. Each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age and, except for the attorney and the public member appointed, shall have been actively engaged in the private investigator business for the previous five years. No more than one board member may be employed by, or affiliated with, the same licensed private investigator agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after appointment to the board.

3. The members shall be appointed for terms of four years, except those first appointed, in which case two members, who shall be licensed private investigators or who shall be licensed as soon as feasible if not already licensed, shall be appointed for terms of four years, two members shall be appointed for terms of three years and two members shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment.

4. The members of the board shall receive no compensation for their services but

shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

324.1054. Unless expressly exempted from the provisions of sections 324.1050 to 324.1084:

(1) It shall be unlawful for any person to engage in the licensed private investigator business in this state unless such person is licensed as a private investigator pursuant to sections 324.1050 to 324.1084;

(2) It shall be unlawful for any person to engage in business in this state as a licensed private investigator agency unless such person is licensed pursuant to sections 324.1050 to 324.1084.

324.1056. The following persons shall not be deemed to be engaging in the licensed private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the internal affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons;

(4) An attorney performing duties as an attorney;

(5) A collection agency or its employee while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;

(6) Insurers, agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;

(7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;

(8) An insurance adjuster; for the purposes of sections 324.1050 to 324.1084, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(9) An unarmed process server only after having been specially appointed by a court and only when investigating for the purpose of identifying the location of a subject for service of process; or

(10) Any investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment, or who does not represent himself to be a licensed private investigator.

324.1058. 1. Every person desiring to be licensed in Missouri as a licensed private investigator or licensed private investigator agency shall make application therefor to the board of licensed private investigator examiners. An application for a license pursuant to the provisions of sections 324.1050 to 324.1084 shall be on a form prescribed by the board of licensed private investigator examiners and accompanied by the required application fee. An application shall be verified and shall include:

- (1) The full name and business address of the applicant;**
- (2) The name under which the applicant intends to do business;**
- (3) A statement as to the general nature of the business in which the applicant intends to engage;**
- (4) A statement as to the classification or classifications under which the applicant desires to be qualified;**
- (5) Two recent photographs of the applicant, of a type prescribed by the board of licensed private investigator examiners, and two classifiable sets of the applicant's fingerprints;**
- (6) A verified statement of the applicant's experience qualifications; and**
- (7) Such other information, evidence, statements or documents as may be required by the board of licensed private investigator examiners.**

2. Before an application for a license may be granted, the applicant shall:

- (1) Be at least twenty-one years of age;**
- (2) Be a citizen of the United States;**
- (3) Not have a felony conviction or misdemeanor involving theft or drugs;**
- (4) Provide proof of insurance with amount to be no less than one million in coverage for liability and proof of workers' compensation insurance as required in chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and**
- (5) Comply with such other qualifications as the board adopts by rules and regulations.**

324.1060. 1. The board of licensed private investigator examiners may require as a condition of licensure as a private investigator that the applicant:

- (1) Successfully complete a course of training conducted by a trainer certified pursuant to section 324.1082;**
- (2) Pass a written examination as evidence of knowledge of investigator business; and**

(3) Submit to an oral interview with the board.

2. The board shall conduct a complete investigation of the background of each applicant for licensure as a licensed private investigator to determine whether the applicant is qualified for licensure pursuant to sections 324.1050 to 324.1084. The board will outline basic qualification requirements for licensing as a licensed private investigator and agency. The board will waive testing requirements and issue a license to existing persons and agencies who make application by January 1, 2002, and meet the requirements of subsection 3 of this section.

3. In the event requirements have been met so that testing has been waived, qualification is dependant on a showing of for the two previous years:

(1) Verifiable levels of revenue;

(2) Registration and good standing as a business in the state of Missouri; and

(3) One quarter million dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure substantially the same as or stricter than that required by this state and shall meet this state's minimum insurance requirements.

324.1062. The board of licensed private investigator examiners may deny a request for a license if the applicant has:

(1) Committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 324.1050 to 324.1084;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Been refused a license pursuant to the provisions of sections 324.1050 to 324.1084 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1050 to 324.1084; or

(5) Knowingly made any false statement in the application.

324.1064. 1. Every application submitted pursuant to the provisions of sections 324.1050 to 324.1084 shall be accompanied by a fee as determined by the board as follows:

(1) For an individual license, agency license and employees being licensed to work under an agency license; or

(2) If a license is issued for a period of less than two years, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

2. A licensed private investigator license shall allow only the individual licensed by the state to conduct investigations. An agency license shall be applied for separately and held by an individual who is licensed as a licensed private investigator. The agency may hire individuals to work for the agency, conducting investigations for such agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications. Employees shall attend a certified training program within a time frame to be determined by the board.

324.1065. 1. All fees required pursuant to sections 324.1050 to 324.1084 shall be paid to and collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the "Board of Licensed Private Investigator Examiners Fund", which is hereby created.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation to the board for the preceding fiscal year. The amount, if any, in the fund that shall lapse is the amount in the fund that exceeds the appropriate multiple of the appropriations to the board for the preceding fiscal year.

3. The board shall set fees, as authorized by sections 324.1050 to 324.1084 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1050 to 324.1084, however the fees will be sufficient to cover the cost and expense of administering sections 324.1050 to 324.1084.

4. The fees prescribed by sections 324.1050 to 324.1084 shall be exclusive and notwithstanding any other provision of law, no municipality may require any person licensed pursuant to sections 324.1050 to 324.1084 to furnish any bond, pass any examination or pay any license fee or occupational tax relative to practicing the person's profession.

324.1066. 1. The board of licensed private investigator examiners shall determine the form of the license which shall include the:

- (1) Name of the licensee;**
- (2) Name under which the licensee is to operate; and**
- (3) Number and date of the license.**

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such

size, design and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.1050 to 324.1084. When any person to whom a card is issued terminates such person's position, office or association with the licensee, the card shall be surrendered to the licensee and, within five days thereafter, shall be mailed or delivered by the licensee to the board of private investigator examiners for cancellation. Within thirty days after any change of address, a licensee shall notify the board thereof. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

324.1068. 1. Any license issued pursuant to sections 324.1050 to 324.1084 shall expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

(1) The application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the board is no longer accurate;

(2) A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file more than two years; and

(3) Additional information may be required by rules and regulations adopted by the board of licensed private investigator examiners.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee, and the licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of sections 324.1050 to 324.1084. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued pursuant to the provisions of sections 324.1050 to 324.1084 shall not be assignable.

324.1070. 1. A licensee may divulge to the board, any law enforcement officer or prosecuting attorney, or such person's representative, any information such person may acquire as to any criminal offense, or instruct his or her client to do so if the client is the victim; however, a licensee shall not divulge to any other person, except as he or she may be required by law to do, any information acquired at the direction of the employer or client for whom the information was obtained.

2. No licensee or officer, director, partner, associate or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee,

and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien or any other lien; or

(5) Manufacture false evidence.

324.1072. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of licensed private investigator examiners. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

324.1074. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name and an address as they appear in the records of the board of licensed private investigator examiners. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received a branch office certificate for such location after compliance with the provisions of sections 324.1050 to 324.1084 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office.

324.1076. 1. The board of licensed private investigator examiners may deny a request for a license, or may suspend or revoke a license issued pursuant to sections 324.1050 to 324.1084 or censure or place a licensee on probation if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the board determines that the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provision of sections 324.1050 to 324.1084;

(3) Violated any rule of the board of licensed private investigator examiners adopted pursuant to the authority contained in sections 324.1050 to 324.1084;

(4) Has been convicted of a felony or misdemeanor involving theft or drugs;

(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(6) Committed or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(7) Knowingly violated, or advised, encouraged or assisted the violation of, any court order or injunction in the course of business as a licensee;

(8) Used any letterhead, advertisement or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state or any political subdivision thereof;

(9) Used a name different from that under which such person is currently licensed in any advertisement, solicitation or contract for business; or

(10) Committed any act which is grounds for denial of an application for a license pursuant to the provisions of section 620.1818, RSMo.

2. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 1 of this section, for disciplinary action are met, the board may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

3. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

4. The agency may continue under the direction of another employee if the individual holding the license is suspended or revoked as approved by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

324.1078. 1. Each licensed private investigator or licensed investigator agency operating pursuant to the provisions of sections 324.1050 to 324.1084 shall be required to keep a complete record of the business transactions of such licensed investigator or licensed investigator agency and upon the order of the board shall give free and full opportunity to inspect the same and to inspect reports made; but any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter

a licensee's place of business to inspect records, but shall appoint another state agency to act as gatherers of information and facts to present to the board regarding any complaint or inspection they are looking into. The board may hire a private agency as long as the agency is conducting an audit and is not an investigative agency or affiliated in any way with a company that provides investigative services.

2. For the purpose of enforcing the provisions of sections 324.1050 to 324.1084, and in making investigations relating to any violation thereof or to the character, competency and integrity of the applicants or licensees hereunder, and for the purpose of investigating the business, business practices and business methods of any applicant or licensee, or of the officers, directors, partners or associates thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner or associate thereof shall not be entitled to any fees or mileage. A subpoena issued pursuant to this section shall be governed by the rules of civil procedure. Any person duly subpoenaed, who fails to obey such subpoena without reasonable cause or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's or licensee's business, business practices and methods or such violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath, and willful false swearing in any such proceeding shall be perjury.

324.1080. 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.1050 to 324.1084.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.1050 to 324.1084 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

3. The department of public safety shall establish guidelines to permit a licensed private investigator to carry a concealed firearm, not to be greater than the firearm training imposed on a P.O.S.T. commissioned officer of a county of the first

classification. Any licensed private investigator holding a valid firearm permit issued by any city not within county or any city with a population of at least four hundred thousand inhabitants will be exempt from the requirements of this subsection.

324.1082. 1. The board of licensed private investigator examiners shall certify persons who are qualified to train licensed private investigators.

2. In order to be certified as a trainer pursuant to this section, a trainer shall:

(1) Be twenty-one or more years of age;

(2) Have a minimum of one-year supervisory experience with a licensed private investigator agency; and

(3) Be personally licensed and qualified to train licensed private investigators.

3. Persons wishing to become certified trainers shall make application to the board of licensed private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

4. A certificate shall be granted to a trainer if the board finds that the applicant:

(1) Meets the requirements of subsection 2 of this section;

(2) Has no felony convictions or misdemeanor involving theft or drugs or currently charged with either;

(3) Has sufficient knowledge of licensed private investigator business to be a suitable person to train licensed private investigators;

(4) Has supplied all required information to the board; and

(5) Has paid the required fee.

5. The certificate issued pursuant to this section shall expire on the second year after the year in which it is issued and shall be renewable biennially upon application and payment of a fee.

324.1084. Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted pursuant to sections 324.1050 to 324.1084 is guilty of a class D felony; and any person who violates any of the other provisions of sections 324.1050 to 324.1084 is guilty of a class A misdemeanor.

374.695. Sections 374.695 to 374.775 may be known and shall be cited as the "Professional Bail Bondsman Licensing Act".

[374.700. As used in sections 374.700 to 374.775, the following terms shall mean:

(1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed under the provisions of sections 374.700 to 374.775, is employed by and is working under the authority of a licensed general bail bond agent;

(2) "Department", the department of insurance of the state of Missouri;

(3) "Director", the director of the department of insurance;

(4) "General bail bond agent", a surety agent or a property bail bondsman, as defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;

(5) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

(6) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor.]

374.700. For the purposes of sections 374.700 to 374.775, the following terms mean:

(1) "Admission to bail", an order from a competent court that the defendant be discharged from actual custody on bail and fixing the amount of the bail;

(2) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed pursuant to the provisions of sections 374.700 to 374.775, is employed by or is working under the authority of a licensed general bail bond agent;

(3) "Bail bond or appearance bond", a bond for a specified monetary amount which is executed by the defendant and a qualified licensee pursuant to sections 374.700 to 374.775 and which is issued to a court or authorized officer as security for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance;

(4) "Department", the department of insurance of the state of Missouri;

(5) "General bail bond agent", a surety agent or a property bail bondsman who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his or her working time to the bail bond business in this state;

(6) "Insurer", any surety insurance company which is qualified by the department to transact surety business in Missouri;

(7) "Licensee", a bail bond agent or a general bail bond agent;

(8) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

(9) "Surety", a bail bond agent acting through a general bail bond agent, or a resident of the state and an owner of visible property, over and above that exempt from execution to the value of the sum in which bail is required which shall be worth that

amount after the payment of debts and liabilities;

(10) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

(11) "Taking of bail" or "take bail", the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking or that the surety will pay to the court the sum specified. Taking of bail or take bail does not include the fixing of the amount of bail and no person other than a competent court shall fix the amount of bail.

374.702. 1. No person shall engage in the bail bond business without being licensed as provided in sections 374.700 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county or municipal employee, who is either elected or appointed, shall be licensed as a bail bond agent or a general bail bond agent.

3. A bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer. A person licensed as a bail bond agent shall hold the license for at least one year prior to owning or being an officer of a licensed general bail bond agent.

4. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.700 to 374.775;

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.700 to 374.775.

5. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business in the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative or other administrative duties which do not require a license pursuant to sections 374.700 to 374.775.

6. Any person who is convicted of a provision of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a provision of this section is guilty of a class D felony.

374.704. 1. Every applicant for a bail bond agent license or a general bail bond agent license shall apply on forms furnished by the department.

2. The application of a bail bond agent shall be accompanied by a duly executed general power of attorney issued by the general bail bond agent or insurer for whom

the bail bond agent will be acting. Upon issuance of the license, a bail bond agent shall not issue an appearance bond exceeding the monetary amount for each recognizance which is specified in and authorized by the general power of attorney filed with the department until the department receives a duly executed qualifying power of attorney from the general bail bond agent or insurer evidencing or authorizing increased monetary limits or amounts for the recognizance.

3. An application for a general bail bond agent license shall be accompanied by proof that the applicant is a Missouri partnership, firm or corporation, or an individual who is a resident of the state. A corporation shall file proof that its most recent annual franchise tax has been paid to the department of revenue as provided in chapter 147, RSMo.

4. No license shall be granted without a showing that the applicant or applicant's insurer has proof of a three hundred thousand dollar bond or liability policy insuring against any damage to persons or property caused by the applicant.

374.715. Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant, or, if the applicant is a corporation or partnership, that each officer or partner thereof has completed at least two years as a bail bond agent, as defined in sections 374.700 to 374.775, and that the applicant possesses liquid assets [of at least ten thousand dollars] **according to the following schedule**, along with a duly executed assignment [of ten thousand dollars] to the state of Missouri[, which] **in the same amount:**

(a) If the general bail bond agent employs three or less bail bond agents, at least fifteen thousand dollars;

(b) If the general bail bond agent employs four to ten bail bond agents, at least twenty-five thousand dollars;

(c) If the general bail bond agent employs eleven to fifteen bail bond agents, at least forty-five thousand dollars;

(d) If the general bail bond agent employs sixteen to twenty bail bond agents, at least sixty-five thousand dollars;

(e) If the general bail bond agent employs twenty-one to twenty-five bail bond agents, at least eighty-five thousand dollars;

(f) If the general bail bond agent employs twenty-six to fifty bail bond agents, at least one hundred thousand dollars;

(g) If the general bail bond agent employs over fifty bail bond agents, at least two hundred thousand dollars.

The assignment shall become effective upon the applicant's violating any provision of sections 374.700 to 374.775. The assignment required by this section shall be in the form, and executed in the manner, prescribed by the department.

374.717. No insurer or licensee, court or law enforcement officer shall:

(1) Pay a fee or rebate or give or promise anything of value in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond to:

(a) A jailer, policeman, peace officer, committing judge or any other person who has power to arrest or to hold in custody any person; or

(b) Any public official or public employee;

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(3) Pay a fee or rebate or give promise of anything of value to the principal or anyone in the principal's behalf;

(4) Accept anything of value from a principal except the premium and expenses incurred; provided that, the licensee shall be permitted to accept collateral security or other indemnity from the principal which shall be returned upon final termination of liability on the bond. If a forfeiture has occurred, the collateral security or other indemnity from the principal may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture. The collateral security or other indemnity required by the licensee shall be reasonable in relation to the amount of the bond. Collateral may not be sold or otherwise transferred until the termination of liability on the bond. When a licensee accepts collateral, the licensee shall provide a prenumbered written receipt, which shall include in detail a full account of the collateral received by the licensee.

374.755. 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 374.700 to 374.775 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of the profession licensed under sections 374.700 to 374.775;

(2) Having entered a plea of guilty or having been found guilty of a felony **or crime involving moral turpitude;**

(3) Use of fraud, deception, misrepresentation or bribery in securing any license [issued pursuant to sections 374.700 to 374.775] or in obtaining permission to take any examination [given or] required pursuant to sections 374.700 to 374.775;

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections 374.700 to 374.775 by means of fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession licensed or regulated by sections 374.700 to 374.775;

(6) Violation of[, or assisting or enabling any other person to violate, any provision of sections 374.700 to 374.775 or of any lawful rule or regulation promulgated pursuant to sections 374.700 to 374.775] **any provisions of, or any obligations imposed by, the laws of this state, department of insurance rules and regulations or aiding or abetting other persons to violate such laws, orders, rules or regulations;**

(7) Transferring a license or permitting another person to use a license of the licensee;

(8) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections 374.700 to 374.775 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice the profession licensed or regulated by sections 374.700 to 374.775 who is not currently licensed and eligible to practice [under] **pursuant to** sections 374.700 to 374.775;

(11) [Paying a fee or rebate, or giving or promising anything of value, to a jailer, policeman, peace officer, judge or any other person who has the power to arrest or to hold another person in custody, or to any public official or employee, in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof;

(12) Paying a fee or rebate, or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(13) Paying a fee or rebate, or giving or promising anything of value, to the principal or anyone in his behalf;

(14)] Participating in the capacity of an attorney at a trial or hearing of one on whose bond he is surety.

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the department may [do any or all of the following:

(1) Censure the person involved;

(2) Place the person involved on probation on such terms and conditions as the department

deems appropriate for a period not to exceed ten years;

(3) Suspend, for a period not to exceed three years, the license of the person involved;

(4) Revoke the license of the person involved.] **admonish or censure a licensee, or suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.**

3. In lieu of filing a complaint at the administrative hearing commission, the department and the bail bond agent or general bail bond agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the department may issue a cease and desist order or may seek an injunction in a court of law pursuant to the provisions of section 374.046 whenever it appears that any person is acting as a bail bond agent or general bail bond agent without a license.

374.764. 1. The director shall examine and inquire into all violations of the bail bond law of the state, and inquire into and investigate the bail bond business transacted in this state by any bail bond agent, general bail bond agent or surety recovery agent.

2. The director or any of his duly appointed agents may compel the attendance before him, and may examine, under oath, the directors, officers, bail bond agents, general bail bond agents, surety recovery agents, employees or any other person, in reference to the condition, affairs, management of the bail bond or surety recovery business or any matters relating thereto. He may administer oaths or affirmations and shall have power to summon and compel the attendance of witnesses and to require and compel the production of records, books, papers, contracts or other documents, if necessary.

3. The director may make and conduct the investigation in person, or he may appoint one or more persons to make and conduct the same for him. If made by a person other than the director, the person duly appointed by the director shall have the same powers as granted to the director pursuant to this section. A certificate of appointment, under the official seal of the director, shall be sufficient authority and evidence thereof for the person to act. For the purpose of making the investigations, or having the same made, the director may employ the necessary clerical, actuarial and other assistance.

374.782. 1. Sections 374.782 to 374.789 shall be known as "The Surety Recovery Agent Licensure Act".

2. As used in sections 374.782 to 374.789, the following terms mean:

(1) "Department", the department of insurance of the state of Missouri;

(2) "Fugitive recovery", the tracking down, recapturing and surrendering to the custody of a court a fugitive who has violated a bail bond agreement;

(3) "Surety recovery agent", a person not performing the duties of a sworn peace

officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent.

374.783. 1. No person shall hold himself or herself out as being a surety recovery agent in this state, unless such person is licensed in accordance with the provisions of sections 374.782 to 374.789.

2. The department shall have authority to license all surety recovery agents in this state. The department shall have control and supervision over the licensing of such agents and the enforcement of the terms and provisions of sections 374.782 to 374.789.

3. The department shall have power to:

(1) Set and determine the amount of the fees which sections 374.782 to 374.789 authorize and require. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering sections 374.782 to 374.789; and

(2) Determine the sufficiency of the qualifications of applicants for licensure.

4. The department shall license all surety recovery agents in this state who meet the requirements of sections 374.782 to 374.789.

374.784. 1. A candidate for a surety recovery agent's license shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's qualifications by completing an approved licensed surety recovery agent course with at least forty hours of minimum training at an institution of higher education or any institution approved by the department.

2. The basic course of training shall consist of at least forty hours of training, be taught by personnel with qualifications approved by the department and may include instruction in:

(1) The following areas of the law:

(a) Constitutional law;

(b) Procedures for arresting defendants and surrendering defendants into custody;

(c) Civil liability;

(d) The civil rights of persons who are detained in custody;

(e) The use of force;

(2) Procedures for field operations, including, without limitation:

(a) Safety and survival techniques;

(b) Searching buildings;

(c) Handling persons who are mentally ill or under the influence of alcohol or

a controlled substance; and

(d) The care and custody of prisoners;

(3) The skills required regarding:

(a) Writing reports, completing forms and procedures for exoneration;

(b) Methods of arrest;

(c) Nonlethal weapons;

(d) The retention of weapons;

(e) Qualifications for the use of firearms;

(f) Defensive tactics; and

(g) Principles of investigation, including, without limitation, the basic principles

of locating defendants who have not complied with the terms and conditions established by a court for their release from custody or the terms and conditions of a contract entered into with a surety;

(4) The following subjects:

(a) Demeanor in a courtroom;

(b) First aid used in emergencies; and

(c) Cardiopulmonary resuscitation.

3. No license shall be granted unless the candidate has proof of a one million dollar bond or liability policy insuring against any damages to persons or property caused by the candidate.

374.785. 1. The department shall issue a license to any surety recovery agent who is licensed in another jurisdiction and who has had no violations, suspensions or revocations of a license to engage in fugitive recovery in any jurisdiction, provided that such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of surety recovery agents in Missouri at the time the applicant applies for licensure, the applicant has proof of a one million dollar bond or liability policy and such general bail bond agent employs a surety recovery agent holding a valid Missouri surety recovery license.

2. For the purpose of surrender of the defendant, a surety may apprehend the defendant, anywhere within the state of Missouri, before or after the forfeiture of the undertaking without personal liability for false imprisonment or may empower any recovery agent to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees.

3. The surety or recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety or

recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety or recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class D felony.

4. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed surety recovery agents from Missouri in other states.

374.786. 1. Every person licensed pursuant to sections 374.782 to 374.789 shall, on or before the license renewal date, apply to the department for a licensure renewal for the ensuing licensing period. The application shall be made on a form furnished to the applicant and shall state the applicant's full name, the applicant's business address, the address at which the applicant resides, the date the applicant first received a license and the applicant's surety recovery agent identification number, if any.

2. A blank form for the application for licensure renewal shall be mailed to each person licensed in this state at the person's last known address. The failure to mail the form of application or the failure of a person to receive it does not, however, relieve any person of the duty to be licensed and to pay the license fee required nor exempt such person from the penalties provided for failure to be licensed.

3. Each applicant for licensure renewal shall accompany such application with a licensure renewal fee to be paid to the department for the licensing period for which licensure renewal is sought.

4. The department may refuse to issue or renew any license required pursuant to sections 374.782 to 374.789 for any one or any combination of causes stated in section 374.787. The department shall notify the applicant in the writing of the reasons for refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

374.787. 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his or her license for any one or any combinations of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations;

- (2) Having been convicted of a felony or crime involving moral turpitude;**
- (3) Using fraud, deception, misrepresentation or bribery in securing a license or in obtaining permission to take any examination required by sections 374.782 to 374.789;**
- (4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception or misrepresentation;**
- (5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety recovery agent without a license;**
- (6) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions of duties of a surety recovery agent;**
- (7) Having revoked or suspended any license by another state.**

2. After the filing of the complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the department may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint with the administrative hearing commission, the department and the surety recovery agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the department may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.

374.788. A surety recovery agent having probable grounds to believe a subject, free on his or her bond, has failed to appear as directed by a court, has breached the terms of the subject's surety agreement or has taken a substantial step toward absconding, may utilize all lawful means to arrest the subject. To surrender a subject to a court a licensed surety recovery agent, having probable grounds to believe the subject is free on their bond, may:

- (1) Detain a subject in a reasonable manner, for a reasonable time not to exceed seventy-two hours;**
- (2) Transport a subject in a reasonable manner from state to state and county to county to a place of authorized surrender; and**
- (3) Enter upon private or public property in a reasonable manner to execute an arrest of a subject.**

374.789. 1. A person is guilty of a class D felony if he or she does not hold a valid surety recovery agent's license or a bail bondsman's license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, trespass, unlawful arrest, unlawful detainment or assault, shall be liable for such damages and may be liable for punitive damages.

590.132. No person shall be commissioned or employed as a peace officer unless he or she is a resident of Missouri.

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