

FIRST REGULAR SESSION

# SENATE BILL NO. 493

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATORS KENNEDY AND MAYER.

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Read 1st time March 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1876S.01I

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## AN ACT

To repeal section 621.045, RSMo, and to enact in lieu thereof twenty-two new sections relating to private investigators, with penalty provisions.

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

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Section A. Section 621.045, RSMo, is repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 324.1100, 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, and 621.045, to read as follows:

**324.1100. As used in sections 324.1100 to 324.1140, the following terms mean:**

(1) "Board", the board of private investigator examiners established in section 324.1102;

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

(3) "Department", the department of economic development;

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

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

(6) "Person", an individual or organization;

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

(8) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

(9) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining 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;

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

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

(e) Sale of personal identification information to the public; or

(f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

324.1102. 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of five members appointed by the governor with the advice and consent of the senate. Each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age, and 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 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 the effective date of the rules promulgated pursuant to sections 324.1100 to 324.1140 regarding licensure.

3. The members shall be appointed for terms of four years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years and one member 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. Each member of the board shall receive as compensation, an amount established by the director not to exceed seventy dollars per day for board business and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", hereafter the fund, which shall consist of money collected pursuant to sections 324.1100 to 324.1140. The fund shall be administered by the board of private investigator examiners, which shall collect the fees authorized by sections 324.1100 to 324.1140 and transmit them to the director of revenue for deposit to the state treasury to the credit of the fund. Money in the

fund shall be used solely for the purposes of the board of private investigator examiners, as authorized by sections 324.1100 to 324.1140.

6. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund shall be transferred to the general revenue fund, and any appropriation made to the fund shall not lapse. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall be credited to the fund.

324.1104. Unless expressly exempted from the provisions of sections 324.1100 to 324.1140:

(1) It shall be unlawful for any person to engage in the private investigator business in this state unless such person is licensed as a private investigator pursuant to sections 324.1100 to 324.1140;

(2) It shall be unlawful for any person to engage in business in this state as a private investigator agency unless such person is licensed pursuant to sections 324.1100 to 324.1140.

324.1106. The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the 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 consumer reporting agency as defined in 15 U.S.C. Section 1681(a) and its contract and salaried employees;

(4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;

(5) A collection agency or an employee thereof 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 and insurance producers 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 324.1100 to 324.1140,

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) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;

(10) Employees of a not-for-profit organization or its affiliate or subsidiary who makes and processes requests on behalf of health care providers and facilities for employee criminal and other background information pursuant to section 660.317, RSMo; or

(11) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license.

324.1108. 1. Every person desiring to be licensed in this state as a private investigator or private investigator agency shall make application therefor to the board of private investigator examiners. An application for a license pursuant to the provisions of sections 324.1100 to 324.1140 shall be on a form prescribed by the board of 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 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 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) Provide proof of insurance with amount to be no less than one million in coverage for liability and proof of workers' compensation insurance if required in chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and

(4) Comply with such other qualifications as the board adopts by rules and regulations.

324.1110. 1. The board of private investigator examiners shall require as a condition of licensure as a private investigator that the applicant pass a written examination as evidence of knowledge of investigator rules and regulation; and

2. The department shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure pursuant to sections 324.1100 to 324.1140. The board will outline basic qualification requirements for licensing as a private investigator and agency.

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

(1) Registration and good standing as a business in this state; and

(2) 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 similar to that required by this state and shall meet this state's minimum insurance requirements.

324.1112. The board of private investigator examiners may deny a request for a license if the applicant:

(1) Has 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 324.1100 to 324.1140;

(2) Within two years prior to the effective date of this section:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Been refused a license pursuant to the provisions of sections 324.1100 to 324.1140 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 324.1100 to 324.1140 after the effective date of this section; or

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

324.1114. 1. Every application submitted pursuant to the provisions of sections 324.1100 to 324.1140 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 one year, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

2. The board shall set fees as authorized by sections 324.1100 to 324.1140 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1140.

3. The fees prescribed by sections 324.1100 to 324.1140 shall be exclusive and notwithstanding any other provision of law. No municipality may require any person licensed pursuant to sections 324.1100 to 324.1140 to furnish any bond, pass any examination, or pay any license fee or occupational tax relative to practicing the person's profession.

4. A 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 private investigator. The agency may hire individuals to work for the agency conducting investigations for the 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.

324.1116. 1. The board of 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 division shall be issued without charge to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.1100 to 324.1140. 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 of the address change. 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.

324.1118. 1. Any license issued pursuant to sections 324.1100 to 324.1140 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 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 324.1100 to 324.1140. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued pursuant to the provisions of sections 324.1100 to 324.1140 shall not be assignable.

4. A licensee shall not be required to take the examination required by section 324.1110 in order to renew the license, but shall complete sixteen hours of board-approved continuing education biennially. Each employee of a licensee shall complete eight hours of board-approved continuing education biennially.

324.1120. 1. Any 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 but such person shall not divulge to any other person, except as he or she may be required by law to do, any information acquired by such person 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;

(5) Manufacture false evidence; or

(6) Create any video recording of an individual in their domicile without the individual's permission. Furthermore, if such video recording is made, it shall not be admissible as evidence in any civil proceeding.

324.1122. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of 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.

324.1124. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name, city, and state as it appears in the records of the board of 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 an additional agency license for such location after compliance with the provisions of sections 324.1100 to 324.1140 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 an additional agency.

324.1126. 1. The board of private investigator examiners may suspend or revoke a license issued pursuant to sections 324.1100 to 324.1140 if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the administrative hearing commission 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 324.1100 to 324.1140;

(3) Violated any rule of the board of private investigator examiners adopted



pursuant to the authority contained in sections 324.1100 to 324.1140;

(4) 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;

(5) 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;

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

(7) 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;

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

(9) Committed any act which is grounds for denial of an application for a license pursuant to the provisions of section 324.1112.

2. 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.

3. 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.

4. 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 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 pursuant to such terms and conditions as the board deems appropriate for a period not to exceed five years, may suspend for a period not to exceed three years, or revoke the license.

324.1128. 1. Each private investigator or investigator agency operating pursuant to the provisions of sections 324.1100 to 324.1140 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board which is based on a complaint supported by oath or

affirmation, and particularly describing the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of 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 utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection they are looking into.

2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1140, and in making investigations relating to any violation 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 Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications, and the bill of rights of both the United States and Missouri Constitutions. 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 alleged unlawful or deceptive 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.

324.1130. 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.1100 to 324.1140.

2. No rule or portion of a rule promulgated pursuant to the authority of sections 324.1100 to 324.1140 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. 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 this section 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, 2005, shall be invalid and void.

324.1132. 1. The board of private investigator examiners shall certify persons who are qualified to train 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 private investigator agency; and
- (3) Be personally licensed as a private investigator pursuant to sections 324.1100 to 324.1140 and qualified to train private investigators.

3. Persons wishing to become certified trainers shall make application to the board of 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 sufficient knowledge of private investigator business to be a suitable person to train private investigators;
- (3) Has supplied all required information to the board; and
- (4) Has paid the required fee.

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

324.1134. Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted pursuant to sections 324.1100 to 324.1140 is guilty of a class D felony; and any person who violates any of the other provisions of sections 324.1100 to 324.1140 is guilty of a class A misdemeanor.

324.1136. The board may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private investigator agencies and licensed private investigators who meet or exceed the qualifications established in sections 324.1100 to 324.1140 to operate across state lines under mutually acceptable terms.

324.1138. Law enforcement officers who perform private investigations shall

be licensed pursuant to this chapter subject to the following qualifications and limitations:

(1) The board may waive testing for law enforcement officers currently certified pursuant to then existing peace officer standards and training requirements pursuant to chapter 590, RSMo;

(2) Law enforcement officers shall pay the appropriate licensing fees;

(3) Law enforcement officers shall assume individual liability for their actions while performing private investigations, complying with any insurance or bonding requirements imposed pursuant to sections 324.1100 to 324.1140;

(4) Law enforcement officers shall not utilize their official capacity in the course of a private investigation, including but not limited to:

(a) Accessing information intended only for police officials. Law enforcement officers shall comply with the legal limits on access to information by a private citizen;

(b) Utilizing any official item, such as a uniform, badge, or vehicle, while performing a private investigation. Law enforcement officers shall provide their own equipment;

(c) Utilizing law enforcement officer arrest and use of force standards. Law enforcement officers shall use private person arrest and use of force standards while operating as a private investigator;

(5) Law enforcement officers shall produce evidence of training and experience concerning the legal limits imposed on private investigations or pass a test on such subject produced by the board; and

(6) The provisions of sections 324.1100 to 324.1140 shall not apply to law enforcement officers who provide only private security services and not private investigator services.

**324.1140. Any person who violates sections 324.1100 to 324.1140 is guilty of a class A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1140 is a class D felony.**

621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri Board of Registration for Architects, Professional Engineers and Land

## Surveyors

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance

Department of Mental Health

### **Board of Private Investigator Examiners**

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof, or file a contested case against the licensee, at least thirty days prior to offering the licensee a settlement proposal, and provide the licensee with an opportunity to respond to the allegations;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, during which to consider the agency's initial settlement offer and discuss the terms of such settlement offer with the agency;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact pursuant to this subsection by the agency or its counsel with a

licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

4. If the licensee desires review by the administrative hearing commission pursuant to subdivision (3) of subsection 3 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

5. As to a matter settled prior to August 28, 1995, by consent agreement or agreed settlement, any party to a consent agreement or agreed settlement, other than a state agency, after having received written notice at their last known address known to the agency from the respective licensing agency of a person's rights under this section, shall have six months to file an action in the circuit court of Cole County contesting the authority of any agency described in subsection 1 of this section to enter into such consent agreement or agreed settlement. Any consent agreement or agreed settlement which is not invalidated by the court pursuant to this subsection shall be given full force and effect by all courts and agencies.

Bill

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