

SECOND REGULAR SESSION

SENATE BILL NO. 1003

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PEARCE.

Read 1st time February 25, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5061S.03I

AN ACT

To repeal section 324.1112, RSMo, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, and section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof two new sections relating to private investigator licensing.

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

Section A. Section 324.1112, RSMo, section 324.1106 as enacted by
2 conference committee substitute for senate substitute for senate committee
3 substitute for house committee substitute for house bill no. 780, ninety-fourth
4 general assembly, first regular session, and section 324.1106 as enacted by
5 conference committee substitute no. 2 for house committee substitute for senate
6 committee substitute for senate bill no. 308, ninety-fourth general assembly, first
7 regular session, are repealed and two new sections enacted in lieu thereof, to be
8 known as section 324.1106 and 324.1112, to read as follows:

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

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

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

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

8 employee's official duties;

9 (3) Any employee, agent, or independent contractor employed by any
10 government agency, division, or department of the state whose work relationship
11 is established by a written contract while working within the scope of
12 employment established under such contract;

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

16 (5) **A certified public accountant, performing duties as a certified**
17 **public accountant, who holds an active license issued by any state, and**
18 **the employees of such certified public accountant or firm assisting in**
19 **the performance of duties or investigatory activities on behalf of such**
20 **certified public accountant or firm;**

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

26 [(6)] (7) Insurers and insurance producers licensed by the state,
27 performing duties in connection with insurance transacted by them;

28 [(7)] (8) Any bank subject to the jurisdiction of the director of the
29 division of finance of the state of Missouri or the comptroller of currency of the
30 United States;

31 [(8)] (9) An insurance adjuster. For the purposes of sections 324.1100
32 to 324.1148, an "insurance adjuster" means any person who receives any
33 consideration, either directly or indirectly, for adjusting in the disposal of any
34 claim under or in connection with a policy of insurance or engaging in soliciting
35 insurance adjustment business;

36 [(9)] (10) Any private fire investigator whose primary purpose of
37 employment is the determination of the origin, nature, cause, or calculation of
38 losses relevant to a fire;

39 [(10)] (11) Employees of a not-for-profit organization or its affiliate or
40 subsidiary, whether for-profit or not-for-profit, whose investigatory activities are
41 limited to making and processing requests for criminal history records and other
42 background information from state, federal, or local databases, including requests
43 for employee background check information under section 660.317, RSMo;

44 [(11)] (12) Any real estate broker, real estate salesperson, or real estate
45 appraiser acting within the scope of his or her license;

46 [(12)] (13) Expert witnesses who have been certified or accredited by a
47 national or state association associated with the expert's scope of expertise;

48 [(13)] (14) Any person who does not hold themselves out to the public as
49 a private investigator but is under contract with a state agency or political
50 subdivision;

51 [(14)] (15) Any person performing duties or conducting investigations
52 relating to serving legal process when such person's investigation is incidental to
53 the serving of legal process; or

54 [(15)] (16) A consumer reporting agency is defined in 15 U.S.C. Section
55 1681(a) and its contract and salaried employees.

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

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

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

9 (3) Any employee, agent, or independent contractor
10 employed by any government agency, division, or department of the
11 state whose work relationship is established by a written contract
12 while working within the scope of employment established under
13 such contract;

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

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

24 (6) Insurers and insurance producers licensed by the state,

25 performing duties in connection with insurance transacted by them;

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

29 (8) An insurance adjuster. For the purposes of sections
30 324.1100 to 324.1148, an "insurance adjuster" means any person
31 who receives any consideration, either directly or indirectly, for
32 adjusting in the disposal of any claim under or in connection with
33 a policy of insurance or engaging in soliciting insurance adjustment
34 business;

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

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

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

44 (12) Expert witnesses who have been certified or accredited
45 by a national or state association associated with the expert's scope
46 of expertise;

47 (13) Any person who does not hold themselves out to the
48 public as a private investigator but is under contract with a state
49 agency or political subdivision; or

50 (14) Any person performing duties or conducting
51 investigations relating to serving legal process when such person's
52 investigation is incidental to the serving of legal process;

53 (15) A consumer reporting agency as defined in 15 U.S.C.
54 Section 1681(a) and its contract and salaried employees.]

324.1112. 1. The board of private investigator examiners may deny a
2 request for a license if the applicant:

3 (1) Has committed any act which, if committed by a licensee, would be
4 grounds for the suspension or revocation of a license under the provisions of
5 sections 324.1100 to 324.1148;

6 (2) [Within two years prior to the application date:

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

10 [(b)] (3) Has been convicted of or entered a plea of guilty or nolo
11 contendere to a misdemeanor offense involving moral turpitude, **including**
12 **receiving a suspended imposition of sentence following a plea of guilty**
13 **to a misdemeanor offense;**

14 [(c)] (4) Has falsified or willfully misrepresented information in an
15 employment application, records of evidence, or in testimony under oath;

16 [(d)] (5) Has been dependent on or abused alcohol or drugs; or

17 [(e)] (6) Has used, possessed, or trafficked in any illegal substance;

18 [(3)] (7) Has been refused a license under the provisions of sections
19 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

20 [(4)] (8) While unlicensed, committed or aided and abetted the
21 commission of any act for which a license is required by sections 324.1100 to
22 324.1148 after August 28, 2007; or

23 [(5)] (9) Knowingly made any false statement in the application.

24 **2. The board shall consider any evidence of the applicant's**
25 **rehabilitation when considering a request for licensure.**

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