

Chapter 9 Private Investigator Regulation Act

53-9-101 Title.

This chapter is known as the "Private Investigator Regulation Act."

Enacted by Chapter 314, 1995 General Session

53-9-102 Definitions.

In this chapter, unless otherwise stated:

- (1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.
- (2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.
- (3) "Agency" means a person who holds an agency license pursuant to this chapter, and includes one who employs an individual for wages and salary, and withholds all legally required deductions and contributions, or contracts with a registrant or an apprentice on a part-time or case-by-case basis to conduct an investigation on behalf of the agency.
- (4) "Applicant" means any person who has submitted a completed application and all required fees.
- (5) "Apprentice" means a person who holds an apprentice license pursuant to this chapter, has not met the requirements for registration, and works under the direct supervision and guidance of an agency.
- (6) "Board" means the Private Investigator Hearing and Licensure Board created in Section 53-9-104.
- (7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
- (8) "Commissioner" means the commissioner of the Department of Public Safety.
- (9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from trial or plea, including a plea of no contest, regardless of whether the imposition of sentence was suspended.
- (10) "Department" means the Department of Public Safety.
- (11) "Direct supervision" means that the agency or employer:
 - (a) is responsible for, and authorizes, the type and extent of work assigned;
 - (b) reviews and approves all work produced by the apprentice before it goes to the client;
 - (c) closely supervises and provides direction and guidance to the apprentice in the performance of his assigned work; and
 - (d) is immediately available to the apprentice for verbal contact, including by electronic means.
- (12) "Emergency action" means a summary suspension of a license pending revocation, suspension, or probation in order to protect the public health, safety, or welfare.
- (13) "Employee" means an individual who works for an agency or other employer, is listed on the agency's or employer's payroll records, and is under the agency's or employer's direction and control. An employee is not an independent contractor.
- (14) "Identification card" means a card issued by the commissioner to a qualified applicant for an agency, registrant, or apprentice license.

- (15) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department informs the licensee of the need to modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.
- (16) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued by the department.
- (17)
- (a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to:
- (i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;
 - (ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;
 - (iii) the credibility of witnesses or other persons;
 - (iv) the whereabouts of missing persons or owners of abandoned property;
 - (v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;
 - (vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;
 - (vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;
 - (viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or
 - (ix) serving civil process.
- (b) "Private investigator or private detective" does not include:
- (i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;
 - (ii) an employee of an attorney licensed to practice law in this state; or
 - (iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.
- (18) "Qualifying party" means the individual meeting the qualifications under this chapter for a private investigator license.
- (19) "Registrant" means any person who holds a registrant license pursuant to this chapter. The registrant performs private investigative work either as an employee on an employer's payroll or, on a contract with an agency, part-time, or case-by-case basis, with a minimum amount of direction.
- (20) "Restructuring" means any change in the legal status of a business.
- (21) "Unprofessional conduct" means any of the following:
- (a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;
 - (b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a private investigator or registrant in this state;
 - (c) gross negligence in the practice of a private investigator or registrant;

- (d) failing or refusing to maintain adequate records and investigative findings on a subject of investigation or a client;
- (e) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of an agency, registrant, or apprentice license. In all cases, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the crime; or
- (f) making a fraudulent or untrue statement to the bureau, board, department, or its investigators, staff, or consultants.

Amended by Chapter 432, 2011 General Session

53-9-103 Commissioner of Public Safety to administer -- Bureau to issue licenses -- Records -- Bonds -- Rulemaking.

- (1) The commissioner shall administer this chapter.
- (2)
 - (a) The bureau, acting at the direction of the commissioner, shall issue a private investigator license to an applicant whom the board finds meets the qualifications for licensure under this chapter.
 - (b) The bureau shall issue a license to an apprentice applicant who meets the qualifications for licensure under this chapter within five business days of receipt of the application.
 - (c) The bureau shall notify each licensee under this chapter when a licensee's license is due for renewal in accordance with procedures established by rule.
- (3)
 - (a) The bureau shall keep records of:
 - (i) all applications for licenses under this chapter; and
 - (ii) all bonds and proof of certificates of liability and workers' compensation insurance required to be filed.
 - (b) The records shall include statements as to whether a license or renewal license has been issued for each application.
- (4) If a license is revoked, suspended, canceled, or denied or if a licensee is placed on probation, the date of filing the order for revocation, suspension, cancellation, denial, or probation shall be included in the records.
- (5) The bureau shall maintain:
 - (a) a list of all licensees whose license has been revoked, suspended, placed on probation, or canceled; and
 - (b) a written record of complaints filed against licensees.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules governing the administration of the provisions of this chapter.

Amended by Chapter 378, 2014 General Session

53-9-104 Board -- Creation-- Qualifications -- Appointments -- Terms -- Immunity.

- (1) There is established a Private Investigator Hearing and Licensure Board consisting of five members appointed by the commissioner.
- (2) Each member of the board shall be a citizen of the United States and a resident of this state at the time of appointment.
 - (a) Two members shall be qualifying parties who are licensed as provided in this chapter.
 - (b) One member shall be a supervisory investigator from the commissioner's office.

- (c) One member shall be a chief of police or sheriff.
 - (d) One member shall be a public member who shall not have a financial interest in a private investigative agency and shall not have an immediate family member or a household member or friend who is licensed or registered under this chapter.
- (3)
- (a) Each member of the board shall serve four-year staggered terms beginning and ending on January 1.
 - (b) Notwithstanding the term requirements of Subsection (3)(a), the commissioner may adjust the length of terms to ensure the terms of board members are staggered so that approximately one member of the board is appointed every year.
- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5) At its first meeting every year, the board shall elect a chair, vice chair, and secretary from its membership.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) A member shall not serve more than one term, except that a member appointed to fill a vacancy or appointed for an initial term of less than four years may be reappointed for one full term.
- (8) The commissioner, after a board hearing and recommendation, may remove any member of the board for misconduct, incompetency, or neglect of duty.
- (9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in furtherance of the purposes of this chapter.

Amended by Chapter 286, 2010 General Session

53-9-105 Powers and duties of the board.

- (1) The board shall:
- (a) review applications for licenses and renewals of licenses for private investigators and approve or deny the applications;
 - (b) upon receiving a timely filed petition, review within a reasonable time the denial, suspension, or revocation of a private investigator license; and
 - (c) review all complaints and make recommendations to the commissioner regarding disciplinary action.
- (2) The board may take and hear evidence, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, records, documents, and other information relating to a formal complaint against or bureau investigation of a private investigator.

Amended by Chapter 432, 2011 General Session

53-9-106 Meetings -- Hearings.

- (1) The board shall meet quarterly, unless the board has no business to conduct during that quarter, and shall also meet at the call of the chair.
- (2) A quorum consists of three members.

- (3) If a member has three unexcused absences within a 12-month period, the board may hold a hearing to determine if that board member should be released from board duties.

Amended by Chapter 330, 2003 General Session

53-9-107 Classification of licenses -- License required to act.

- (1) Every person applying for a license under this chapter shall indicate on the application which of the following licenses the applicant is applying for:
 - (a) an agency license shall be issued to an applicant who meets the agency requirements of Sections 53-9-108 and 53-9-109;
 - (b) a registrant license shall be issued to an applicant who meets the registrant requirements of Sections 53-9-108 and 53-9-110; or
 - (c) an apprentice license shall be issued to an applicant who meets the apprentice requirements of Sections 53-9-108 and 53-9-110.
- (2) Unless licensed under this chapter, a person may not:
 - (a) act or assume to act as, or represent himself to be:
 - (i) a licensee; or
 - (ii) a private investigator or private detective as defined in Subsection 53-9-102(16) or conduct any investigation as provided in Subsection 53-9-102(16); or
 - (b) falsely represent to be employed by or for an independent contractor for an agency.
- (3) A licensed registrant, as defined in Section 53-9-102, may only work as an employee of, or as an independent contractor for, an agency licensed under this chapter, and may not:
 - (a) advertise the licensed registrant's services or conduct investigations for the general public; or
 - (b) employ other private investigators or hire them as independent contractors.
- (4)
 - (a) A licensed apprentice, as defined in Section 53-9-102, may only work under the direct supervision and guidance of an agency licensed under this chapter, and may not:
 - (i) advertise the licensed apprentice's services or conduct investigations for the general public;
 - (ii) employ other private investigators; or
 - (iii) obtain information from the Utah State Tax Commission Motor Vehicle Division or Driver License Division within the Department of Public Safety, except the apprentice may utilize information from these agencies for a legitimate business need and under the direct supervision and guidance of a licensed agency.
 - (b) A registrant or apprentice whose license has been suspended or revoked shall immediately notify the agency which supervises the registrant or apprentice of the action.

Amended by Chapter 432, 2011 General Session

53-9-108 Qualifications for licensure.

- (1)
 - (a) An applicant under this chapter shall be at least 21 years of age and a legal resident of this state.
 - (b) An applicant may not have been:
 - (i) convicted of a felony;
 - (ii) convicted of an act involving illegally using, carrying, or possessing a dangerous weapon;
 - (iii) convicted of an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;
 - (iv) convicted of an act constituting dishonesty or fraud;

- (v) convicted of an act involving moral turpitude;
 - (vi) placed on probation or parole;
 - (vii) named in an outstanding arrest warrant; or
 - (viii) convicted of illegally obtaining or disclosing private, controlled, or protected records as provided in Section 63G-2-801.
- (c) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.
- (2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board shall consider mitigating circumstances presented by an applicant.
- (3)
- (a) An applicant for an agency license shall have:
 - (i) a minimum of 10,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government; or
 - (ii) if the applicant held a registrant license or an apprentice license under this chapter on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government.
 - (b) An applicant for a registrant license shall have a minimum of 2,000 hours of investigative experience that consists of actual investigative work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, an investigator for a state, county, or municipal government, or a process server.
 - (c) At least 2,000 hours of the investigative experience required under this Subsection (3) shall have been performed within 10 years immediately prior to the application.
 - (d) An applicant shall substantiate investigative work experience required under this Subsection (3) by providing:
 - (i) the exact details as to the character and nature of the investigative work on a form prescribed by the bureau and certified by the applicant's employers; or
 - (ii) if the applicant is applying for the reinstatement of an agency license, internal records of the applicant that demonstrate the investigative work experience requirement has previously been met.
 - (e)
 - (i) The applicant shall prove completion of the investigative experience required under this Subsection (3) to the satisfaction of the board and the board may independently verify the certification offered on behalf of the applicant.
 - (ii) The board may independently confirm the claimed investigative experience and the verification of the applicant's employers.
- (4) An applicant for an apprentice license, lacking the investigative experience required for a registrant license, shall meet all of the qualification standards in Subsection (1), and shall complete an apprentice application.
- (5) An applicant for an agency or registrant license may receive credit toward the hours of investigative experience required under Subsection (3) as follows:
- (a) an applicant may receive credit for 2,000 hours of investigative experience if the applicant:
 - (i) has an associate's degree in criminal justice or police science from an accredited college or university; or
 - (ii) is certified as a peace officer; and

- (b) an applicant may receive credit for 4,000 hours of investigative experience if the applicant has a bachelor's degree in criminal justice or police science from an accredited college or university.
- (6) The board shall determine if the applicant may receive credit under Subsection (5) toward the investigative and educational experience requirements under Subsection (3).
- (7) An applicant for the renewal of a license under this chapter shall be a legal resident of this state.

Amended by Chapter 378, 2014 General Session

53-9-109 Application for agency license -- Liability insurance -- Workers' compensation.

- (1) Every application for an agency license to engage in the private investigative business shall provide to the bureau:
 - (a) the full name and business address of the applicant;
 - (b) one passport-size color photograph of the applicant;
 - (c) the name under which the applicant intends to do business;
 - (d) a statement that the applicant intends to engage in the private investigative business;
 - (e) a verified statement of the applicant's experience and qualifications as provided in Section 53-9-108; and
 - (f) the fee prescribed in Section 53-9-111.
- (2) Before the issuance or renewal of an agency license, the applicant shall provide to the bureau:
 - (a) a certificate of liability insurance; and
 - (b) a certificate of workers' compensation insurance, if applicable.
- (3) The liability insurance required by this section shall:
 - (a) protect against liability to third persons;
 - (b) contain a limit of liability in an amount of not less than \$500,000;
 - (c) be continuous in form and run concurrently with the license period; and
 - (d) provide for notice to the bureau in the event of cancellation of the liability insurance.
- (4)
 - (a) The bureau shall cancel a license when it receives notice from the insurer that liability insurance required under Subsection (2) has expired or been canceled.
 - (b) The licensee shall be notified by the bureau when a license has been cancelled under this Subsection (4).
 - (c) The license may be reinstated when the licensee:
 - (i) files proof of liability insurance for the remainder of the license period; and
 - (ii) pays the reinstatement fee prescribed in Section 53-9-111.

Amended by Chapter 432, 2011 General Session

53-9-110 Application for registrant or apprentice license.

- (1) Every application for a registrant or apprentice license shall provide to the bureau:
 - (a) the full name and address of the applicant;
 - (b) one passport-size color photograph of the applicant;
 - (c) the name of the licensed agency for which the applicant will be an employee, apprentice, or contract registrant, if applicable;
 - (d) authorization of the licensed agency or its designee to employ the apprentice or contract with the registrant, if applicable;

- (e) a verified statement of the applicant's experience and qualifications as provided in Section 53-9-108; and
 - (f) the fee prescribed in Section 53-9-111.
- (2) An application for a registrant or apprentice license or renewal shall be accompanied by a surety bond in the amount of \$10,000.
- (3) The surety bond required by this section shall:
- (a) be in effect throughout the entire licensing period; and
 - (b) provide that the issuer of the surety bond will notify the bureau if the bond is cancelled or expired.
- (4)
- (a) The bureau shall cancel a license when it receives notice from the insurer that the bond required in Subsection (2) has expired or been cancelled.
 - (b) The licensee shall be notified by the bureau when a license has been cancelled under this Subsection (4).
 - (c) The license may be reinstated when the licensee:
 - (i) files proof of a bond for the remainder of the license period; and
 - (ii) pays the reinstatement fee prescribed in Section 53-9-111.

Amended by Chapter 170, 2015 General Session

53-9-111 License and registration fees -- Deposit in General Fund.

- (1) Fees for licensure and renewal are as follows:
- (a) for an original agency license application and license, \$215, plus an additional fee for the costs of fingerprint processing and background investigation;
 - (b) for the renewal of an agency license, \$115;
 - (c) for an original registrant or apprentice license application and license, \$115, plus an additional fee for the costs of fingerprint processing and background investigation;
 - (d) for the renewal of a registrant or apprentice license, \$65;
 - (e) for filing an agency renewal application more than 30 days after the expiration date of the license, a delinquency fee of \$65;
 - (f) for filing a registrant or apprentice renewal application more than 30 days after the expiration date of the registration, a delinquency fee of \$45;
 - (g) for the reinstatement of any license, \$65;
 - (h) for a duplicate identification card, \$25; and
 - (i) for the fingerprint processing fee, an amount that does not exceed the cost to the bureau charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information.
- (2)
- (a) The bureau may renew a license granted under this chapter:
 - (i) to a resident of the state;
 - (ii) upon receipt of a renewal application on forms as prescribed by the bureau; and
 - (iii) upon receipt of the fees prescribed in Subsection (1).
 - (b)
 - (i) The renewal of a license requires the filing of all certificates of insurance or proof of surety bond as required by this chapter.
 - (ii) Renewal of a license may not be granted more than 180 days after expiration.
 - (c) A licensee may not engage in activity subject to this chapter during the period between the date of expiration of the license and the renewal of the license.

- (3)
 - (a) The bureau shall renew a suspended license if:
 - (i) the period of suspension has been completed;
 - (ii) the bureau has received a renewal application from the applicant on forms prescribed by the bureau; and
 - (iii) the applicant has:
 - (A) filed all certificates of insurance or proof of surety bond as required by this chapter; and
 - (B) paid the fees required by this section for renewal, including a delinquency fee if the application is not received by the bureau within 30 days of the termination of the suspension.
 - (b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in activity regulated by this chapter, or in other activity or conduct in violation of the order or judgment by which the license was suspended.
- (4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year from the date of revocation.
- (5) All fees, except the fingerprint processing fee, collected by the bureau under this section shall be deposited in the General Fund.

Amended by Chapter 378, 2014 General Session

53-9-112 Issuance of license and identification card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.

- (1) The commissioner shall issue a license to an applicant who complies with the provisions of this chapter. Each license issued under this chapter shall:
 - (a) contain the name and address of the licensee and the number of the license, its agency, registrant, or apprentice license designation; and
 - (b) be issued for a period of two years.
- (2) On the issuance of a license, an identification card shall:
 - (a) be issued without charge to the licensee; and
 - (b) state on its face whether the bearer holds an agency, registrant, or apprentice license.
- (3)
 - (a) A registrant identification card shall state that the licensee is under the direction of a licensed agency and may not do investigative work independently for the public.
 - (b) An apprentice identification card shall state that the licensee is under the direct supervision of a licensed agency and may not do investigative work independently for the public.
- (4) Upon request by any person, the licensee shall immediately identify the name, business address, and phone number of the licensed agency for which the licensee is an employee or independent contractor.
- (5)
 - (a) On notification by the commissioner to an applicant that the license is not complete, or is not ready for issuance pending additional information, the applicant shall complete the application process and provide the additional information within 90 days.
 - (b) Failure to complete the process shall result in the application being cancelled and all fees forfeited.
 - (c) Subsequent application by the same applicant requires the payment of all application and license fees prescribed in Section 53-9-111.
- (6) A licensee shall notify the commissioner of any change in the name or address of his business within 60 days of the change and failure to so notify will result in the automatic suspension of

the license. To relieve the suspension, the licensee must apply for reinstatement and pay the fee prescribed in Section 53-9-111.

(7) A license issued under this chapter is not transferable or assignable.

Amended by Chapter 212, 1998 General Session

53-9-113 Grounds for denial of a license -- Appeal.

- (1) The board may deny a license or the renewal of a license if the applicant has:
 - (a) committed an act that, if committed by a licensee, would be grounds for probation, suspension, or revocation of a license under this chapter;
 - (b) employed or contracted with a person who has been refused a license under this chapter or who has had a license revoked;
 - (c) while not licensed under this chapter, committed, or aided and abetted the commission of, any act for which a license is required by this chapter; or
 - (d) knowingly made a material misstatement in connection with an application for a license or renewal of a license.
- (2)
 - (a) The board's denial of a license under this chapter shall:
 - (i) be in writing;
 - (ii) describe the basis for the denial; and
 - (iii) inform the applicant that if the applicant desires a hearing to contest the denial, the applicant shall submit a request in writing to the board within 30 days after the denial has been sent by certified mail to the applicant.
 - (b) The board shall schedule a hearing on the denial for the next board meeting after the applicant's request for a hearing has been received by the board.
- (3) The decision of the board may be appealed to the commissioner, who may:
 - (a) return the case to the board for reconsideration;
 - (b) modify the board's decision; or
 - (c) reverse the board's decision.
- (4) The commissioner shall promptly issue a final order and send the order by mail to the applicant.
- (5) Decisions of the commissioner are subject to judicial review pursuant to Section 63G-4-402.

Amended by Chapter 432, 2011 General Session

53-9-115 Business name and address -- Posting of license -- Advertising.

- (1)
 - (a) Subject to the provisions of this chapter, a licensee may conduct an investigative business under a name other than the licensee's by:
 - (i) complying with the requirements of Title 42, Chapter 2, Conducting Business Under Assumed Name; and
 - (ii) providing a copy of the filed certificate to the commissioner.
 - (b) Failure to comply with Subsection (1)(a) shall result in the suspension of the license.
- (2) Each licensee shall have at least one physical location from which the normal business of the agency is conducted. The address of this location shall be on file with the commissioner at all times and is not a public record pursuant to Subsection 63G-2-301(2)(b)(ii).
- (3) The license certificate issued by the commissioner shall be posted in a conspicuous place in the principal office of the licensee.

- (4) Subject to the provisions of this chapter, a licensee may solicit business through any accepted form of advertising.
 - (a) Any advertisement shall contain the licensee's name and license number as it appears on the license certificate.
 - (b) A licensee may not use false, deceptive, or misleading advertising.

Amended by Chapter 382, 2008 General Session

53-9-116 Divulging investigative information -- False reports prohibited.

- (1) Except as otherwise provided by this chapter, a licensee may not divulge or release to anyone other than his client or employer the contents of an investigative file acquired in the course of licensed investigative activity. However, the board shall have access to investigative files if the client for whom the information was acquired, or his lawful representative, alleges a violation of this chapter by the licensee or if the prior written consent of the client to divulge or release the information has been obtained.
- (2) A licensee may not willfully make a false statement or report to a client, employer, the board, or any authorized representative of the department, concerning information acquired in the course of activities regulated by this chapter.
- (3) The licensee shall submit investigative reports to a client at times and in the manner agreed upon between the licensee and the client.
- (4) Upon demand by the client, the licensee shall divulge to the client the results of an investigation if payment in full has been tendered for the charges levied.
- (5) The licensee has full right to withdraw from any case and refund any portion of a retainer for which investigative work has not been completed.

Amended by Chapter 212, 1998 General Session

53-9-117 Authority to investigate complaint -- Filing of complaints -- Response -- Retention of records -- Appeal -- Penalties collected.

- (1) The bureau or board may initiate an investigation of any person advertising services or engaged in performing services that require a license under this chapter and shall investigate if a licensee is engaged in activities that do not comply with or are prohibited by this chapter.
- (2) The bureau shall enforce the provisions of this chapter without regard to the place or location in which a violation may have occurred, and on the complaint of any person, may investigate any alleged violation of this chapter or the business and business methods of any licensee or applicant for licensure under this chapter.
- (3) Complaints against any licensee shall be filed with the bureau in writing on forms prescribed by the bureau.
 - (a) Upon receipt of a complaint, or at the request of the board, the bureau shall assign the complaint to an investigator within the bureau.
 - (b) The bureau will provide a copy of the complaint to the licensee who shall answer the complaint in writing within 15 working days of the date the complaint is sent to the licensee by certified mail.
- (4) In any investigation undertaken by the bureau, each licensee on request shall provide records and truthfully respond to questions concerning activities regulated under this chapter.
 - (a) These records shall be maintained for five years at the principal place of business of the licensee or at another location approved by the board for a person whose license has been terminated, canceled, or revoked.

- (b) On request by the bureau the licensee shall:
 - (i) during normal business hours or other time acceptable to the parties, make its records available immediately to the bureau unless the bureau determines that an extension may be granted; and
 - (ii) provide copies of any business records requested by the bureau.
- (5) Upon completion of the investigation, the bureau shall report its findings of fact to the board, and shall make a recommendation as to whether disciplinary action is warranted under Section 53-9-118, including whether emergency action should be taken under Subsection (8).
- (6)
 - (a) If the bureau recommends disciplinary action, a notice of the recommendations in Subsection (5) shall be sent by the bureau to the licensee by certified mail.
 - (b) The notice shall include the date and time of the meeting where the board will consider the bureau's recommendation.
 - (c) The board shall give the licensee an opportunity at the meeting to present testimony and evidence in response to the bureau's recommendation.
- (7) If the board finds, based on the investigation or hearing, that a violation of Section 53-9-118 has occurred, notice of the board's decision shall be sent to the licensee at the licensee's most recent address in the bureau's files by certified mail, return receipt requested.
- (8) Based on information the board receives from the investigation or during a hearing, the board may:
 - (a) dismiss the complaint if the board finds it is without merit;
 - (b) take emergency action;
 - (c) issue a letter of concern, if applicable;
 - (d) impose a civil penalty not to exceed \$500;
 - (e) place the license on suspension for a period of not more than 12 months;
 - (f) revoke the license; and
 - (g) place all records, evidence findings, and conclusion, and any other information pertinent to the investigation, in a confidential and protected records section of the licensee's file maintained at the bureau.
- (9) A letter of concern issued for a violation of Section 53-9-118 is a document that is retained by the bureau and may be used in future disciplinary actions against a licensee.
- (10)
 - (a) Appeal of the board's decision shall be made in writing to the commissioner within 15 days from the date the board's decision is mailed to the licensee.
 - (b) The commissioner shall review the board's finding and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.
- (11)
 - (a) The commissioner shall issue a final written order within 30 days outlining the decision on appeal.
 - (b) The final order is final agency action for purposes of judicial review under Section 63G-4-402.
- (12)
 - (a) If the board finds, based on the bureau's investigation, that the public health, safety, or welfare requires emergency action, the board may order a summary suspension of a license pending proceedings for revocation or other action.
 - (b) If the board issues a summary suspension order, the board shall issue to the licensee a written notice of the order and indicate the licensee's right to request a formal hearing

before the board. The notice shall be mailed to the licensee by certified mail, return receipt requested.

- (c) The licensee's request for a formal hearing shall be in writing and mailed to the bureau within 30 working days of the date the summary suspension was mailed to the licensee.
- (13) All penalties collected under this section shall be deposited in the General Fund.

Amended by Chapter 432, 2011 General Session

53-9-118 Grounds for disciplinary action.

The board may suspend or revoke a license or registration or deny an application for a license if a person engages in:

- (1) fraud or willful misrepresentation in applying for an original license or renewal of an existing license;
- (2) using any letterhead, advertising, or other printed matter in any manner representing that the licensee is an instrumentality of the federal government, a state, or any political subdivision of a state;
- (3) using a name different from that under which the licensee is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name;
- (4) impersonating, permitting, or aiding and abetting an employee or independent contractor to impersonate a peace officer or employee of the United States, any state, or a political subdivision of a state;
- (5) knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, or injunction in the course of a business regulated under this chapter;
- (6) falsifying fingerprints or photographs while operating under this chapter;
- (7) conviction of a felony;
- (8) conviction of any act involving illegally using, carrying, or possessing a dangerous weapon;
- (9) conviction of any act involving moral turpitude;
- (10) conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;
- (11) soliciting business for an attorney in return for compensation;
- (12) conviction of any act constituting dishonesty or fraud;
- (13) being placed on probation, parole, or named in an outstanding arrest warrant;
- (14) committing or permitting any employee or independent contractor to commit any act during the period when the license is expired or suspended;
- (15) willfully neglecting to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties unless the licensee chooses to withdraw from the case and returns the funds for work not yet completed;
- (16) the unauthorized release of information acquired on behalf of a client by a licensee, or its employee or contract agent as a result of activities regulated under this chapter;
- (17) failing to cooperate with, misrepresenting to, or refusing access to business or investigative records requested by the board or an authorized representative of the bureau engaged in an official investigation pursuant to this chapter;
- (18) employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;

- (19) permitting, authorizing, aiding, or in any way assisting an employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;
- (20) failure to maintain in full force and effect liability or workers' compensation insurance, or a surety bond, if applicable;
- (21) conducting private investigation services regulated by this chapter on a revoked or suspended license;
- (22) accepting employment, contracting, or in any way engaging in employment that has an adverse impact on investigations being conducted on behalf of clients;
- (23) advertising in a false, deceptive, or misleading manner;
- (24) refusing to display the identification card issued by the bureau to any person having reasonable cause to verify the validity of the license;
- (25) committing any act of unprofessional conduct;
- (26) conviction of any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63G-2-801; or
- (27) any other conduct prohibited by this chapter.

Amended by Chapter 432, 2011 General Session

53-9-119 Violation -- Penalty.

Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

Amended by Chapter 212, 1998 General Session

53-9-121 Limited-use license.

- (1) As used in this section:
 - (a) "Legislative body" means:
 - (i) the Legislature;
 - (ii) the Utah House of Representatives;
 - (iii) the Utah Senate;
 - (iv) a special investigative committee; or
 - (v) a staff office of the Legislature.
 - (b) "Special investigative committee" is as defined in Subsection 36-12-9(1).
- (2) Notwithstanding any provision of this chapter, a person is qualified to receive a limited-use license if the person:
 - (a) is licensed, in good standing, by another state, district, or territory of the United States to provide the services of a private investigator or private detective; and
 - (b) is retained by a legislative body to provide the services of a private investigator or private detective for:
 - (i) a special investigative committee; or
 - (ii) a purpose relating to impeachment.
- (3) A person holding a limited-use license may only provide the services described in Subsection (2)(b).
- (4) The bureau shall issue a limited-use license to a person within five days after the day on which the bureau receives notice from a legislative body that:
 - (a) the person meets the qualifications described in Subsection (2)(a); and
 - (b) the legislative body has retained the person to provide the services described in Subsection (2)(b).

- (5) The bureau may not:
 - (a) impose a qualification for the receipt of a limited-use license other than the qualifications described in Subsection (2)(a); or
 - (b) charge a fee to issue a limited-use license.
- (6) A limited-use license expires when the person to whom it is issued is no longer retained by a legislative body to provide a service described in Subsection (2)(b).

Enacted by Chapter 3, 2013 Special Session 1

Enacted by Chapter 3, 2013 Special Session 1