

1 SECURITY AGENCY QUALIFICATION AMENDMENTS

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Margaret Dayton

5 House Sponsor: Keith Grover

6

7 LONG TITLE

8 General Description:

9 This bill modifies the Public Safety Code regarding licensure qualifications and
10 discipline of private investigators **H→ and exempts certified public accountants ←H** .

11 Highlighted Provisions:

12 This bill:

- 13 ▶ modifies the licensure requirements for a private investigator agency and for a
- 14 private investigator registrant;
- 15 ▶ increases the number of hours of experience required for licensure in each category;
- 16 ▶ allows credit toward required hours of experience for certain educational degrees;

17 **H→ [and] ←H**

18 ▶ requires a certificate of liability insurance for an agency and a surety bond for a
19 registrant or an apprentice **H→ ; and**

19a ▶ **clarifies that certified public accountants are exempted from licensure as a private**
19b **investigator ←H** .

20 Money Appropriated in this Bill:

21 None

22 Other Special Clauses:

23 None

24 Utah Code Sections Affected:

25 AMENDS:

25a **H→ 53-9-102, as last amended by Laws of Utah 2001, Chapter 330 ←H**

26 **53-9-103**, as last amended by Laws of Utah 2008, Chapter 382

27 **53-9-105**, as last amended by Laws of Utah 2003, Chapter 330



- 28 **53-9-107**, as last amended by Laws of Utah 1998, Chapter 212
- 29 **53-9-108**, as last amended by Laws of Utah 2008, Chapter 382
- 30 **53-9-109**, as last amended by Laws of Utah 1998, Chapter 212
- 31 **53-9-110**, as last amended by Laws of Utah 1998, Chapter 212
- 32 **53-9-111**, as last amended by Laws of Utah 1998, Chapter 212
- 33 **53-9-113**, as last amended by Laws of Utah 2008, Chapter 382
- 34 **53-9-117**, as last amended by Laws of Utah 1998, Chapter 212
- 35 **53-9-118**, as last amended by Laws of Utah 2008, Chapter 382
- 36 **53-11-115**, as enacted by Laws of Utah 1998, Chapter 257



38 *Be it enacted by the Legislature of the state of Utah:*

38a **↩→ Section 1. Section 53-9-102 is amended to read:**

38b **53-9-102. Definitions.**

38c **In this chapter, unless otherwise stated:**

38d (1) **"Adequate records"** means records containing, at a minimum, sufficient information to
38e identify the client, the dates of service, the fee for service, the payments for service, the type of service
38f given, and copies of any reports that may have been made.

38g (2) **"Advertising"** means the submission of bids, contracting or making known by any public
38h notice, publication, or solicitation of business, directly or indirectly, that services regulated under this
38i chapter are available for consideration.

38j (3) **"Agency"** means a person who holds an agency license pursuant to this chapter, and
38k includes one who employs an individual for wages and salary, and withholds all legally required
38l deductions and contributions, or contracts with a registrant or an apprentice on a part-time or
38m case-by-case basis to conduct an investigation on behalf of the agency.

38n (4) **"Applicant"** means any person who has submitted a completed application and all
38o required fees.

38p (5) **"Apprentice"** means a person who holds an apprentice license pursuant to this chapter, has
38q not met the requirements for registration, and works under the direct supervision and guidance of an
38r agency.

38s (6) **"Board"** means the Private Investigator Hearing and Licensure Board created in Section
38t **53-9-104.**

38u (7) **"Bureau"** means the Bureau of Criminal Identification created in Section **53-10-201.**

38v (8) **"Commissioner"** means the commissioner of the Department of Public Safety.

38w (9) **"Conviction"** means an adjudication of guilt by a federal, state, or local court resulting
38x from trial or plea, including a plea of no contest, regardless of whether the imposition of sentence was
38y suspended. **↩↩**

- 38z **Ĥ→(10) "Department" means the Department of Public Safety.**
- 38aa **(11) "Direct supervision" means that the agency or employer:**
- 38ab **(a) is responsible for, and authorizes, the type and extent of work assigned;**
- 38ac **(b) reviews and approves all work produced by the apprentice before it goes to the client;**
- 38ad **(c) closely supervises and provides direction and guidance to the apprentice in the**
- 38ae **performance of his assigned work; and**
- 38af **(d) is immediately available to the apprentice for verbal contact, including by electronic**
- 38ag **means.**
- 38ah **(12) "Emergency action" means a summary suspension of a license pending revocation,**
- 38ai **suspension, or probation in order to protect the public health, safety, or welfare.**
- 38aj **(13) "Employee" means an individual who works for an agency or other employer, is listed on**
- 38ak **the agency's or employer's payroll records, and is under the agency's or employer's direction and**
- 38al **control. An employee is not an independent contractor.**
- 38am **(14) "Identification card" means a card issued by the commissioner to a qualified applicant**
- 38an **for an agency, registrant, or apprentice license.**
- 38ao **(15) "Letter of concern" means an advisory letter to notify a licensee that while there is**
- 38ap **insufficient evidence to support probation, suspension, or revocation of a license, the department**
- 38aq **informs the licensee of the need to modify or eliminate certain practices and that continuation of the**
- 38ar **activities that led to the information being submitted to the department may result in further**
- 38as **disciplinary action against the licensee.**
- 38at **(16) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued**
- 38au **by the department.**
- 38av **(17) (a) "Private investigator or private detective" means any person, except collection**
- 38aw **agencies and credit reporting agencies, who, for consideration, engages in business or accepts**
- 38ax **employment to conduct any investigation for the purpose of obtaining information with reference to:**
- 38ay **(i) crime, wrongful acts, or threats against the United States or any state or territory of the**
- 38az **United States;**
- 38ba **(ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity,**
- 38bb **credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts,**
- 38bc **affiliations, associations, or transactions of any person or group of persons;**
- 38bd **(iii) the credibility of witnesses or other persons;**
- 38be **(iv) the whereabouts of missing persons or owners of abandoned property;**
- 38bf **(v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident,**
- 38bg **damage, or an injury to real or personal property;**
- 38bh **(vi) the business of securing evidence to be used before investigating committees or boards of**
- 38bi **award or arbitration or in the trial of civil or criminal cases and the trial preparation;**
- 38bj **(vii) the prevention, detection, and removal of installed devices for eavesdropping ←Ĥ**

38bk **Ĥ→ or observation;**

38bl (viii) the business of "skip tracing" persons who have become delinquent in their lawful debts,
38bm either when hired by an individual, collection agency, or through the direct purchase of the debt from
38bn a financial institution or entity owning the debt or judgment; or

38bo (ix) serving civil process.

38bp (b) "Private investigator or private detective" does not include:

38bq (i) any person or employee conducting an investigation on the person's or employee's own
38br behalf or on behalf of the employer if the employer is not a private investigator under this chapter;

38bs **[or]**

38bt (ii) an employee of an attorney licensed to practice law in this state ; or

38bu (iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.

38bv (18) "Qualifying party" means the individual meeting the qualifications under this chapter for
38bw a private investigator license.

38bx (19) "Registrant" means any person who holds a registrant license pursuant to this chapter.

38by The registrant performs private investigative work either as an employee on an employer's payroll or,
38bz on a contract with an agency, part-time, or case-by-case basis, with a minimum amount of direction.

38ca (20) "Restructuring" means any change in the legal status of a business.

38cb (21) "Unprofessional conduct" means any of the following:

38cc (a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by
38cd this chapter;

38ce (b) aiding or abetting a person who is not licensed pursuant to this chapter in representing
38cf that person as a private investigator or registrant in this state;

38cg (c) gross negligence in the practice of a private investigator or registrant;

38ch (d) failing or refusing to maintain adequate records and investigative findings on a subject of
38ci investigation or a client;

38cj (e) committing a felony or a misdemeanor involving any crime that is grounds for denial,
38ck suspension, or revocation of an agency, registrant, or apprentice license. In all cases, conviction by a
38cl court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the
38cm crime; or

38cn (f) making a fraudulent or untrue statement to the bureau, board, department, or its
38co investigators, staff, or consultants. **←Ĥ**

39 Section **Ĥ→** [†] 2 **←Ĥ** . Section 53-9-103 is amended to read:

40 **53-9-103. Commissioner of Public Safety to administer -- Bureau to issue licenses**

41 **-- Records -- Bonds -- Rulemaking.**

42 (1) The commissioner [~~of the Department of Public Safety~~] shall administer this
43 chapter.

44 (2) (a) The bureau, acting at the direction of the commissioner, shall issue a private
45 investigator license to any applicant [~~who~~] whom the board finds meets the qualifications for
46 licensure under [~~Section 53-9-108~~] this chapter.

47 (b) The bureau shall issue a license to [~~a qualified~~] an apprentice applicant who meets
48 the qualifications for licensure under this chapter within five business days of receipt of the
49 application.

50 (3) (a) The bureau shall keep records of:

51 (i) all applications for licenses under this chapter; and

52 (ii) all bonds and proof of certificates of liability and workers' compensation insurance
53 required to be filed.

54 (b) The records shall include statements as to whether a license or renewal license has
55 been issued for each application [~~and bond~~].

56 (4) If a license is revoked, suspended, canceled, or denied or if a licensee is placed on
57 probation, the date of filing the order for revocation, suspension, cancellation, denial, or
58 probation shall be included in the records.

59 (5) The bureau shall maintain:

60 (a) a list of all licensees whose license has been revoked, suspended, placed on
61 probation, or canceled; and

62 (b) a written record of complaints filed against licensees.

63 (6) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
64 Administrative Rulemaking Act, as necessary to administer this chapter.

65 Section ~~H~~→ [2] 3 ←~~H~~ . Section 53-9-105 is amended to read:

66 **53-9-105. Powers and duties of the board.**

67 (1) The board shall:

68 (a) review [~~all~~] applications for licenses and renewals of licenses for private
69 investigators and [~~make recommendations to the commissioner for approval or disapproval~~]
70 approve or deny the applications;

71 (b) upon receiving a timely filed petition, review within a reasonable time the denial,
72 suspension, or revocation of a private investigator license; and

73 (c) review all complaints and make recommendations to the commissioner regarding
74 disciplinary action.

75 (2) The board may take and hear evidence, administer oaths and affirmations, and
76 compel by subpoena the attendance of witnesses and the production of books, papers, records,
77 documents, and other information relating to a formal complaint against or [~~department~~]
78 bureau investigation of a private investigator.

79 Section ~~H~~→ [3] 4 ←~~H~~ . Section 53-9-107 is amended to read:

80 **53-9-107. Classification of licenses -- License required to act.**

81 (1) Every person applying for a license under this chapter shall indicate on the
82 application which of the following licenses the applicant is applying for:

83 (a) an agency license shall be issued to an applicant who meets the agency
84 requirements of [~~Subsection~~] Sections 53-9-108[~~(1)~~] and [~~Section~~] 53-9-109;

85 (b) a registrant license shall be issued to an applicant who meets the registrant
86 requirements of [~~Subsection~~] Sections 53-9-108[~~(2)~~] and [~~Section~~] 53-9-110; or

87 (c) an apprentice license shall be issued to an applicant who meets the apprentice
88 requirements of [~~Subsection~~] Sections 53-9-108[~~(3)~~] and [~~Section~~] 53-9-110.

89 (2) Unless licensed under this chapter, a person may not:

90 (a) act or assume to act as, or represent himself to be:

91 (i) a licensee; or

92 (ii) a private investigator or private detective as defined in Subsection 53-9-102(16) or
93 conduct any investigation as provided in Subsection 53-9-102(16); or

94 (b) falsely represent to be employed by or for an independent contractor for an agency.

95 (3) A licensed registrant, as defined in Section 53-9-102, may only work as an
96 employee of, or as an independent contractor for, an agency licensed under this chapter, and
97 may not:

98 (a) advertise the licensed registrant's services or conduct investigations for the general
99 public; or

100 (b) employ other private investigators or hire them as independent contractors.

101 (4) (a) A licensed apprentice, as defined in Section 53-9-102, may only work under the
102 direct supervision and guidance of an agency licensed under this chapter, and may not:

103 (i) advertise the licensed apprentice's services or conduct investigations for the general
104 public;

105 (ii) employ other private investigators; or

106 (iii) obtain information from the Utah State Tax Commission Motor Vehicle Division
107 or Driver License Division within the Department of Public Safety, except the apprentice may
108 utilize information from these agencies for a legitimate business need and under the direct
109 supervision and guidance of a licensed agency.

110 (b) A registrant or apprentice whose license has been suspended or revoked shall
111 immediately notify the agency which supervises the registrant or apprentice of the action.

112 Section ~~5~~ → [4] ~~5~~ ← ~~5~~ . Section **53-9-108** is amended to read:

113 **53-9-108. Qualifications for licensure.**

114 (1) (a) An applicant [~~for an agency license~~] under this chapter shall be at least 21 years
115 of age[~~, a citizen or~~] and a legal resident of [the United States, and of good moral character]
116 this state.

117 (b) An applicant may not have been:

118 (i) convicted of a felony;

119 (ii) convicted of an act involving illegally using, carrying, or possessing a dangerous
120 weapon;

121 (iii) convicted of an act of personal violence or force on any person or convicted of
122 threatening to commit an act of personal violence or force against another person;

123 (iv) convicted of an act constituting dishonesty or fraud;

124 (v) convicted of an act involving moral turpitude;

125 (vi) placed on probation or parole;

126 (vii) named in an outstanding arrest warrant; or

127 (viii) convicted of illegally obtaining or disclosing private, controlled, or protected
128 records as provided in Section 63G-2-801.

129 (c) If previously or currently licensed in another state or jurisdiction, the applicant shall
130 be in good standing within that state or jurisdiction.

131 ~~[(e)] (2)~~ In assessing ~~[good moral character]~~ if an applicant meets the requirements
132 under Subsection (1)(b), the board shall consider mitigating circumstances presented by an
133 applicant [regarding information under Subsections (1)(b)(vi) and (viii)].

134 ~~[(d) If previously or currently licensed in another state or jurisdiction, the applicant~~
135 ~~shall be in good standing within that state or jurisdiction.]~~

136 ~~[(e)] (3) (a)~~ An applicant for an agency license shall have completed a minimum of
137 ~~[two years, or 2,000]~~ 10,000 hours[;] of investigative experience that consists of actual work
138 performed as a licensed private investigator ~~[for a private agency,]~~ or ~~[2,000 hours of work~~
139 ~~performed in an investigative capacity]~~ as an investigator for the federal government, or for a
140 state, county, or municipal government.

141 (b) An applicant for a registrant license shall have completed a minimum 2,000 hours
142 of investigative experience that consists of actual work performed as a licensed private
143 investigator or as an investigator for the federal government, or for a state, county, or municipal
144 government.

145 (c) Investigative experience required under this Subsection (3) shall have been
146 performed within 10 years immediately prior to the application.

147 ~~[(f)-(i)] (d)~~ An applicant ~~[for an agency license]~~ shall substantiate investigative work
148 experience ~~[claimed as years of qualifying experience and provide]~~ required under this
149 Subsection (3) by providing the exact details as to the character and nature of the ~~[experience]~~
150 investigative work on a form prescribed by the ~~[department]~~ bureau and certified by the
151 applicant's employers.

152 ~~[(ii) If the applicant is unable to supply written certification from an employer in whole~~
153 ~~or in part, the applicant may offer written certification from persons other than an employer~~
154 ~~covering the same subject matter for consideration by the board.]~~

155 ~~[(iii) (e) (i) The applicant shall prove completion of the [required] experience required~~
156 ~~under this Subsection (3) to the satisfaction of the board and the board may independently~~
157 ~~verify the certification offered on behalf of the applicant.~~

158 ~~(ii) The board may independently confirm the claimed investigative experience and the~~
159 ~~verification of the applicant's employers.~~

160 ~~[(2) (a) (i) An applicant for a registrant license shall meet all qualification standards of~~
161 ~~this section, except Subsection (1)(d).]~~

162 ~~[(ii) An applicant shall have a minimum of one year, or 1,000 hours, of investigative~~
163 ~~experience that consists of actual work performed as a private investigator for a private agency,~~
164 ~~the federal government, a state, county, or municipal government.]~~

165 ~~[(b) A licensed registrant, as defined in Section 53-9-102, shall only work as an~~
166 ~~employee of, or as an independent contractor with, an agency licensed in Utah and physically~~
167 ~~located within Utah, and may not:]~~

168 ~~[(i) advertise the licensed registrant's services or conduct investigations for the general~~
169 ~~public; or]~~

170 ~~[(ii) employ other private investigators or hire them as independent contractors.]~~

171 ~~[(3) (a) (4) An applicant for an apprentice license, lacking the experience required for~~
172 ~~a registrant license, shall meet all of the qualification standards in Subsection (1) [except~~
173 ~~Subsection (1)(d)], and shall complete an apprentice application.~~

174 ~~[(b) (i) An apprentice, as defined in Section 53-9-102, shall work under the direct~~
175 ~~supervision and guidance of an agency licensed in Utah and located within Utah, full-time for~~
176 ~~one year or for 1,000 hours, prior to acquiring eligibility for a registrant license.]~~

177 ~~[(ii) A licensed apprentice shall only work under the direction of a licensed agency and~~
178 ~~may not:]~~

179 ~~[(A) advertise the licensed apprentice's services or conduct investigations for the~~
180 ~~general public;]~~

181 ~~[(B) employ other private investigators; or]~~

182 ~~[(C) obtain information from the Utah State Tax Commission Motor Vehicle Division~~

183 ~~or Driver License Division within the Department of Public Safety, except the apprentice may~~
 184 ~~utilize this information for a legitimate business need and under the direct supervision of a~~
 185 ~~licensed agency.]~~

186 ~~[(4)(a)]~~ (5) An applicant for an agency[;] ~~or registrant[, or apprentice]~~ license may ~~[be~~
 187 ~~eligible for a license without meeting all or part of the investigative work experience required~~
 188 ~~by this section if the applicant]~~ receive credit toward the hours of investigative experience
 189 required under Subsection (3) as follows:

190 (a) an applicant may receive credit for 2,000 hours of investigative experience if the
 191 applicant:

192 (i) has [a] an associate's degree in criminal justice ~~[degree]~~ or police science from an
 193 accredited college or university; or

194 (ii) is certified ~~[by Peace Officer Standards and Training; or]~~ as a peace officer; and

195 ~~[(iii) can substantiate other similar law enforcement or investigative training in the~~
 196 ~~areas set forth in Subsection 53-9-102(17).]~~

197 (b) an applicant may receive credit for 4,000 hours of investigative experience if the
 198 applicant has a bachelors degree in criminal justice or police science from an accredited college
 199 or university.

200 ~~[(b)]~~ (6) The board shall determine ~~[whether or not training]~~ if the applicant may
 201 ~~[replace the work experience requirement and to what extent]~~ receive credit under Subsection
 202 (5) toward the investigative experience requirements under Subsection (3).

203 Section ~~H~~ → [5] 6 ← ~~H~~ . Section **53-9-109** is amended to read:

204 **53-9-109. Application for agency license -- Liability insurance -- Workers'**
 205 **compensation.**

206 (1) Every application for an agency license to engage in the private investigative
 207 business shall ~~[set forth information to assist the commissioner in determining the applicant's~~
 208 ~~ability to meet the requirements prescribed in this chapter and contain the following]~~ provide to
 209 the bureau:

210 (a) the full name and business address of the applicant;

211 (b) ~~[two]~~ one passport-size color photographs of the applicant;

212 (c) the name under which the applicant intends to do business;

213 (d) a statement that the applicant intends to engage in the private investigative

214 business;

215 (e) a verified statement of the applicant's experience and qualifications as provided in
216 Section 53-9-108; and

217 (f) the fee prescribed in Section 53-9-111.

218 (2) Before the issuance ~~[of an original]~~ or renewal of an agency license, the applicant
219 shall provide to the ~~[department]~~ bureau:

220 ~~[(a) a surety bond in the amount of \$10,000; and]~~

221 (a) a certificate of liability insurance; and

222 (b) a certificate of workers' compensation insurance, if applicable.

223 (3) The ~~[bond]~~ liability insurance required by this section shall ~~[be]~~:

224 ~~[(a) executed and acknowledged by the applicant as principal and by a corporation
225 licensed to transact fidelity and surety business in this state as surety;]~~

226 (a) protect against liability to third persons;

227 (b) contain a limit of liability in an amount of not less than \$500,000;

228 ~~[(b)]~~ (c) be continuous in form and run concurrently with the license period; and

229 (d) provide for notice to the bureau in the event of cancellation of the liability
230 insurance.

231 ~~[(c) in favor of the state for the benefit of any person injured by any acts of a private
232 investigator, his agency, or his employees; and]~~

233 ~~[(d) subject to claims by any person who is injured by those acts.]~~

234 ~~[(4) (a) The commissioner shall cancel the agency license of any licensed agency on the
235 cancellation of the surety bond.]~~

236 ~~[(b) The license may be reinstated when the qualifying party:]~~

237 ~~[(i) files a surety bond that is concurrent with the remainder of the license period; and]~~

238 ~~[(ii) pays the reinstatement fee prescribed in Section 53-9-111.]~~

239 (4) (a) The bureau shall cancel a license when it receives notice from the insurer that
240 liability insurance required under Subsection (2) has expired or been canceled.

241 (b) The licensee shall be notified by the bureau when a license has been cancelled
242 under this Subsection (4).

243 (c) The license may be reinstated when the licensee:

244 (i) files proof of liability insurance for the remainder of the license period; and

245 (ii) pays the reinstatement fee prescribed in Section 53-9-111.

246 Section ~~H~~→ [6] 7 ←~~H~~ . Section 53-9-110 is amended to read:

247 **53-9-110. Application for registrant or apprentice license.**

248 (1) Every application for a registrant or apprentice license shall provide [~~information to~~
249 ~~assist the commissioner in determining the applicant's ability to meet the requirements~~
250 ~~prescribed in this chapter and contain the following] to the bureau:~~

251 (a) the full name and address of the applicant;

252 (b) [~~two~~] one passport-size color photographs of the applicant;

253 (c) the name of the licensed agency for which the applicant will be an employee,
254 apprentice, or contract registrant, if applicable;

255 (d) authorization of the licensed agency or its designee to employ the apprentice or
256 contract with the registrant, if applicable;

257 (e) a verified statement of the applicant's experience and qualifications as provided in
258 Section 53-9-108; and

259 (f) the fee prescribed in Section 53-9-111.

260 (2) An application for a registrant or apprentice license or renewal shall be
261 accompanied by a surety bond in the amount of \$10,000.

262 (3) The surety bond required by this section shall:

263 (a) protect against liability to third persons;

264 (b) be continuous in form and run concurrently with the license period; and

265 (c) provide for notice to the bureau in the event of cancellation of the surety bond.

266 (4) (a) The bureau shall cancel a license when it receives notice from the insurer that
267 the bond required in Subsection (2) has expired or been canceled.

268 (b) The licensee shall be notified by the bureau when a license has been cancelled
269 under this Subsection (4).

270 (c) The license may be reinstated when the licensee:

271 (i) files proof of a bond for the remainder of the license period; and

272 (ii) pays the reinstatement fee prescribed in Section 53-9-111.

273 Section ~~H~~→ [7] 8 ←~~H~~ . Section 53-9-111 is amended to read:

274 **53-9-111. License and registration fees -- Deposit in General Fund.**

275 (1) Fees for licensure and renewal shall be as follows:

276 (a) for an original agency license application and license, \$200, plus an additional fee
277 for the costs of fingerprint processing and background investigation;

278 (b) for the renewal of an agency license, \$100;

279 (c) for an original registrant or apprentice license application and license, \$100, plus an
280 additional fee for the costs of fingerprint processing and background investigation;

281 (d) for the renewal of a registrant or apprentice license, \$50;

282 (e) for filing an agency renewal application more than 30 days after the expiration date
283 of the license, a delinquency fee of \$50;

284 (f) for filing a registrant or apprentice renewal application more than 30 days after the
285 expiration date of the registration, a delinquency fee of \$30;

286 (g) for the reinstatement of any license, \$50;

287 (h) for a duplicate identification card, \$10; and

288 (i) for the fingerprint processing fee, an amount that does not exceed the cost to the
289 [department] bureau charged by the Federal Bureau of Investigation for fingerprint processing
290 for the purpose of obtaining federal criminal history record information.

291 (2) (a) The [commissioner] bureau may renew a license granted under this chapter
292 upon receipt of a renewal application on forms as prescribed by the [commissioner] bureau and
293 upon receipt of the fees prescribed in Subsection (1).

294 (b) The renewal of a license requires the filing of [~~a surety bond as described in~~
295 ~~Subsections 53-9-109(2) and (3)] all certificates of insurance or proof of surety bond as
296 required by this chapter. Renewal of a license [~~shall~~] may not be granted more than 90 days
297 after expiration.~~

298 (c) A licensee may not engage in any activity subject to this chapter during any period
299 between the date of expiration of the license and the renewal of the license.

300 (3) (a) The [commissioner] bureau shall renew a suspended license if:

301 (i) the period of suspension has been completed;

302 (ii) the [commissioner] bureau has received a renewal application from the applicant
303 on forms prescribed by the [commissioner] bureau; and

304 (iii) the applicant has:

305 (A) filed [~~a surety bond as described by Subsections 53-9-109(2) and (3)] all
306 certificates of insurance or proof of surety bond as required by this chapter; and~~

307 (B) paid the fees required by this section for renewal, including a delinquency fee if the
 308 application is not received by the [~~commissioner~~] bureau within 30 days of the termination of
 309 the suspension.

310 (b) Renewal of the license does not entitle the licensee, while the license remains
 311 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any
 312 other activity or conduct in violation of the order or judgment by which the license was
 313 suspended.

314 (4) The [~~commissioner shall~~] bureau may not reinstate a revoked license or accept an
 315 application for a license from a person whose license has been revoked for at least one year
 316 from the date of revocation.

317 (5) All fees, except the fingerprint processing fee, collected by the [~~department~~] bureau
 318 under this section shall be deposited in the General Fund.

319 Section ~~H~~ → [8] 9 ← ~~H~~ . Section 53-9-113 is amended to read:

320 **53-9-113. Grounds for denial of a license -- Appeal.**

321 (1) The board may deny a license or the renewal of a license if the applicant has:

322 (a) committed an act that, if committed by a licensee, would be grounds for probation,
 323 suspension, or revocation of a license under this chapter;

324 (b) employed or contracted with a person who has been refused a license under this
 325 chapter or who has had a license revoked;

326 (c) while not licensed under this chapter, committed, or aided and abetted the
 327 commission of, any act for which a license is required by this chapter; or

328 (d) knowingly made a material misstatement in connection with an application for a
 329 license or renewal of a license.

330 (2) (a) The board's denial of a license under this chapter shall:

331 (i) be in writing;

332 (ii) describe the basis for the denial; and

333 (iii) inform the applicant that if the applicant desires a hearing to contest the denial, the
 334 applicant shall submit a request in writing to the board within 30 days after the denial has been
 335 sent [~~by the department~~] by certified mail to the applicant.

336 (b) The board shall schedule a hearing on the denial for the next board meeting after
 337 the applicant's request for a hearing has been received by the board.

338 (3) The decision of the board may be appealed to the commissioner, who may:

339 (a) return the case to the board for reconsideration;

340 (b) modify the board's decision; or

341 (c) reverse the board's decision.

342 (4) The [~~department~~] commissioner shall promptly issue a final order [~~of the~~
343 ~~commissioner~~] and send the order by mail to the applicant.

344 (5) Decisions of the commissioner are subject to judicial review pursuant to Section
345 63G-4-402.

346 Section ~~H~~→ [9] 10 ←~~H~~ . Section **53-9-117** is amended to read:

347 **53-9-117. Authority to investigate complaint -- Filing of complaints -- Response --**
348 **Retention of records -- Appeal -- Penalties collected.**

349 (1) The [~~commissioner~~] bureau or board may initiate an investigation of any person
350 advertising services or engaged in performing services that require a license under this chapter
351 and shall investigate if a licensee is engaged in activities that do not comply with or are
352 prohibited by this chapter.

353 (2) The [~~commissioner~~] bureau shall enforce the provisions of this chapter without
354 regard to the place or location in which a violation may have occurred, and on the complaint of
355 any person, may investigate any alleged violation of this chapter or the business and business
356 methods of any licensee or applicant for licensure under this chapter.

357 (3) Complaints against any licensee shall be filed with the [~~commissioner~~] bureau in
358 writing on forms prescribed by the [~~commissioner~~] bureau.

359 (a) Upon receipt of a complaint, or at the request of the board, the [~~commissioner~~]
360 bureau shall assign the complaint to an investigator within the [~~department~~] bureau.

361 (b) The [~~department~~] bureau will provide a copy of the complaint to the licensee who
362 shall answer the complaint in writing within 15 working days of the date the complaint is sent
363 [~~by the department~~] to the licensee by certified mail.

364 (4) In any investigation undertaken by the [~~department~~] bureau, each licensee on
365 request shall provide records and truthfully respond to questions concerning activities regulated
366 under this chapter.

367 (a) These records shall be maintained for five years at the principal place of business of
368 the licensee or at another location approved by the board for a person whose license has been

369 terminated, canceled, or revoked.

370 (b) On request by the [department] bureau the licensee shall:

371 (i) during normal business hours or other time acceptable to the parties, make its
372 records available immediately to the [department] bureau unless the [department] bureau
373 determines that an extension may be granted; and

374 (ii) provide copies of any business records requested by the [department] bureau.

375 (5) Upon completion of the investigation, the [department] bureau shall report its
376 findings of fact to the board, and shall make a recommendation as to whether disciplinary
377 action is warranted under [Subsection] Section 53-9-118[+], including whether emergency
378 action should be taken under Subsection [53-9-118(2)] (8).

379 (6) (a) If the [department] bureau recommends disciplinary action, a notice of the
380 recommendations in Subsection (5) shall be sent by the [department] bureau to the licensee by
381 certified mail.

382 (b) The notice shall include the [right to request a hearing before the board, and require
383 that any such request shall be in writing and received by the board within 30 working days of
384 the date the notice of recommendations was sent by the department to the licensee by certified
385 mail] date and time of the meeting where the board will consider the bureau's recommendation.

386 (c) The board shall give the licensee an opportunity at the meeting to present testimony
387 and evidence in response to the bureau's recommendation.

388 (7) If the board finds, based on the investigation or hearing, that a violation of Section
389 53-9-118 has occurred, notice of the board's decision shall be sent to the licensee at the
390 licensee's most recent address in the bureau's files by certified mail, return receipt requested.

391 (8) Based on information the board receives from the investigation or during a hearing,
392 the board may:

393 (a) dismiss the complaint if the board finds it is without merit;

394 (b) take emergency action;

395 (c) issue a letter of concern, if applicable;

396 (d) impose a civil penalty not to exceed \$500;

397 (e) place the license on suspension for a period of not more than 12 months;

398 (f) revoke the license; and

399 (g) place all records, evidence findings, and conclusion, and any other information

400 pertinent to the investigation, in a confidential and protected records section of the licensee's
 401 file maintained at the bureau.

402 (9) A letter of concern issued for a violation of Section 53-9-118 is a document that is
 403 retained by the bureau and may be used in future disciplinary actions against a licensee.

404 (10) (a) Appeal of the board's decision shall be made in writing to the commissioner
 405 within 15 days from the date the board's decision is mailed to the licensee.

406 (b) The commissioner shall review the board's finding and may affirm, return to the
 407 board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the
 408 recommendation of the board.

409 (11) (a) The commissioner shall issue a final written order within 30 days outlining the
 410 decision on appeal.

411 (b) The final order is final agency action for purposes of judicial review under Section
 412 63G-4-402.

413 (12) (a) If the board finds, based on the bureau's investigation, that the public health,
 414 safety, or welfare requires emergency action, the board may order a summary suspension of a
 415 license pending proceedings for revocation or other action.

416 (b) If the board issues a summary suspension order, the board shall issue to the licensee
 417 a written notice of the order and indicate the licensee's right to request a formal hearing before
 418 the board. The notice shall be mailed to the licensee by certified mail, return receipt requested.

419 (c) The licensee's request for a formal hearing shall be in writing and mailed to the
 420 bureau within 30 working days of the date the summary suspension was mailed to the licensee.

421 (13) All penalties collected under this section shall be deposited in the General Fund.

422 Section ~~H~~→ [10] 11 ←~~H~~ . Section 53-9-118 is amended to read:

423 **53-9-118. Grounds for disciplinary action.**

424 [(+)] The board may suspend or revoke a license or registration or deny an application
 425 for a license if a person engages in [any of the following]:

426 [(a)] (1) fraud or willful misrepresentation in applying for an original license or
 427 renewal of an existing license;

428 [(b)] (2) using any letterhead, advertising, or other printed matter in any manner
 429 representing that the licensee is an instrumentality of the federal government, a state, or any
 430 political subdivision of a state;

431 ~~[(e)]~~ (3) using a name different from that under which the licensee is currently licensed
432 for any advertising, solicitation, or contract to secure business unless the name is an authorized
433 fictitious name;

434 ~~[(d)]~~ (4) impersonating, permitting, or aiding and abetting an employee or independent
435 contractor to impersonate a peace officer or employee of the United States, any state, or a
436 political subdivision of a state;

437 ~~[(e)]~~ (5) knowingly violating, advising, encouraging, or assisting the violation of any
438 statute, court order, or injunction in the course of a business regulated under this chapter;

439 ~~[(f)]~~ (6) falsifying fingerprints or photographs while operating under this chapter;

440 ~~[(g)]~~ (7) conviction of a felony;

441 ~~[(h)]~~ (8) conviction of any act involving illegally using, carrying, or possessing a
442 dangerous weapon;

443 ~~[(i)]~~ (9) conviction of any act involving moral turpitude;

444 ~~[(j)]~~ (10) conviction of any act of personal violence or force against any person or
445 conviction of threatening to commit any act of personal violence or force against any person;

446 ~~[(k)]~~ (11) soliciting business for an attorney in return for compensation;

447 ~~[(l)]~~ (12) conviction of any act constituting dishonesty or fraud;

448 ~~[(m)]~~ (13) being placed on probation, parole, or named in an outstanding arrest
449 warrant;

450 ~~[(n)]~~ (14) committing or permitting any employee or independent contractor to commit
451 any act during the period when the license is expired or suspended;

452 ~~[(o)]~~ (15) willfully neglecting to render to a client services or a report as agreed
453 between the parties and for which compensation has been paid or tendered in accordance with
454 the agreement of the parties unless the licensee chooses to withdraw from the case and returns
455 the funds for work not yet completed;

456 ~~[(p)]~~ (16) the unauthorized release of information acquired on behalf of a client by a
457 licensee, or its employee or contract agent as a result of activities regulated under this chapter;

458 ~~[(q)]~~ (17) failing to cooperate with, misrepresenting to, or refusing access to business
459 or investigative records requested by the board or an authorized representative of the
460 ~~[department]~~ bureau engaged in an official investigation pursuant to this chapter;

461 ~~[(r)]~~ (18) employing or contracting with any unlicensed or improperly licensed person

462 or agency to conduct activities regulated under this chapter if the licensure status was known or
463 could have been ascertained by reasonable inquiry;

464 ~~[(s)]~~ (19) permitting, authorizing, aiding, or in any way assisting an employee to
465 conduct services as described in this chapter on an independent contractor basis and not under
466 the authority of the licensed agency;

467 ~~[(t)]~~ (20) failure to maintain in full force and effect liability or workers' compensation
468 insurance, or a surety bond, if applicable;

469 ~~[(u)]~~ (21) conducting private investigation services regulated by this chapter on a
470 revoked or suspended license;

471 ~~[(v)]~~ (22) accepting employment, contracting, or in any way engaging in employment
472 that has an adverse impact on investigations being conducted on behalf of clients;

473 ~~[(w)]~~ (23) advertising in a false, deceptive, or misleading manner;

474 ~~[(x)]~~ (24) refusing to display the identification card issued by the ~~[department]~~ bureau
475 to any person having reasonable cause to verify the validity of the license;

476 ~~[(y)]~~ (25) committing any act of unprofessional conduct;

477 ~~[(z)]~~ (26) conviction of any act of illegally obtaining or disseminating private,
478 controlled, or protected records under Section 63G-2-801; or

479 ~~[(aa) engaging in]~~ (27) any other conduct prohibited by this chapter.

480 ~~[(2) (a) If the board finds, based on the investigation, that the public health, safety, or~~
481 ~~welfare requires emergency action, the board may order a summary suspension of a license~~
482 ~~pending proceedings for revocation or other action.]~~

483 ~~[(b) If the board issues a summary suspension order, the commissioner shall issue to~~
484 ~~the licensee a written notice of the order and indicate the licensee's right to request a formal~~
485 ~~hearing before the board.]~~

486 ~~[(c) The licensee's request for a formal hearing shall be in writing and received by the~~
487 ~~department within 30 working days of the date the summary suspension was sent by the~~
488 ~~department to the licensee by certified mail.]~~

489 ~~[(3) If the board finds, based on the investigation or hearing, that a violation under~~
490 ~~Subsection (1) has occurred, notice will be sent to the licensee of the board's decision by~~
491 ~~mailing a true copy to the licensee's last-known address in the department's files by certified~~
492 ~~mail, return receipt requested.]~~

493 ~~[(4) Based on information the board receives from the investigation or during a~~
 494 ~~hearing, it may do any of the following:]~~

495 ~~[(a) dismiss the complaint if the board believes it is without merit;]~~

496 ~~[(b) take emergency action;]~~

497 ~~[(c) issue a letter of concern, if applicable;]~~

498 ~~[(d) impose a civil fine not to exceed \$500;]~~

499 ~~[(e) place the license on suspension for a period of not more than 12 months;]~~

500 ~~[(f) revoke the license or registration; and]~~

501 ~~[(g) place all records, evidence findings, and conclusion, and any other information~~
 502 ~~pertinent to the investigation, in a confidential and protected records section of the file~~
 503 ~~maintained at the department.]~~

504 ~~[(5) A letter of concern issued pursuant to Section 53-9-118 is a document that is~~
 505 ~~retained by the department and may be used in future disciplinary actions against a licensee.]~~

506 ~~[(6) Appeal of the board's decision shall be made in writing to the commissioner within~~
 507 ~~15 days of the date of issuance of the board's decision. The commissioner shall review the~~
 508 ~~finding by the board and may affirm, return to the board for reconsideration, reverse, adopt,~~
 509 ~~modify, supplement, amend, or reject the recommendation of the board.]~~

510 ~~[(7) The department shall issue a final written order within 30 days outlining the~~
 511 ~~commissioner's decision on the appeal. The final order is final agency action for purposes of~~
 512 ~~judicial review under Section 63G-4-402.]~~

513 ~~[(8) All fines collected under this section shall be deposited in the General Fund.]~~

514 Section ~~H~~→ [H] 12 ←~~H~~ . Section **53-11-115** is amended to read:

515 **53-11-115. License fees -- Deposit in General Fund.**

516 (1) Fees for licensure, registration, and renewal are:

517 (a) for an original bail enforcement agent license application and license, \$250, which
 518 shall include the costs of fingerprint processing and background investigation;

519 (b) for the renewal of a bail enforcement agent or bail bond recovery agency license,
 520 \$150;

521 (c) for an original bail recovery agent license application and license, \$150, which shall
 522 include the costs of fingerprint processing and background investigation;

523 (d) for the renewal of each bail recovery agent license, \$100;

524 (e) for an original bail recovery apprentice license application and license, \$150, which
 525 shall include the costs of fingerprint processing and background investigation;

526 (f) for the renewal of each bail recovery apprentice license, \$100;

527 (g) for filing a renewal application under Subsection (1)(b) more than 30 days after the
 528 expiration date of the license, a delinquency fee of \$50;

529 (h) for filing a renewal application under Subsection (1)(d) more than 30 days after the
 530 expiration date of the registration, a delinquency fee of \$30;

531 (i) for filing a renewal application under Subsection (1)(f) more than 30 days after the
 532 expiration date of the apprentice license, a delinquency fee of \$30;

533 (j) for the reinstatement of a bail enforcement agent or bail bond recovery agency
 534 license, \$50;

535 (k) for a duplicate identification card, \$10; and

536 (l) for reinstatement of an identification card, \$10.

537 (2) (a) The board may renew a license granted under this chapter upon receipt of an
 538 application on forms as prescribed by the board and upon receipt of the fees prescribed in
 539 Subsection (1).

540 (b) The renewal of a bail enforcement agent, bail recovery agent, or bail recovery
 541 apprentice license requires the filing of a ~~§~~ **→ [bond-or]** ~~← §~~ liability insurance policy as ~~[described]~~
 542 required in Subsections ~~§~~ [53-9-109] 53-9-110 ← § (2) and (3).

543 (c) A license may not be renewed more than 90 days after its expiration.

544 (d) A licensee may not engage in any activity subject to this chapter during any period
 545 between the date of expiration of the license and the renewal of the license.

546 (3) (a) The board may reinstate a suspended license upon completion of the term of
 547 suspension.

548 (b) Renewal of the license does not entitle the licensee, while the license remains
 549 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any
 550 other activity or conduct in violation of the order or judgment by which the license was
 551 suspended.

552 (4) The board may not reinstate a revoked license or accept an application for a license
 553 from a person whose license has been revoked for at least one year after the date of revocation.

554 (5) All fees collected by the department under this section shall be deposited in the

555 General Fund.

Legislative Review Note
as of 2-10-11 1:53 PM

Office of Legislative Research and General Counsel

REVISED FISCAL NOTE

S.B. 177

SHORT TITLE: Security Agency Qualification Amendments

SPONSOR: Dayton, M.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill will reduce state General Fund revenue by \$6,200 annually beginning FY 2012 as the result of lost fees from out-of-state private investigators.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	(\$6,200)	(\$6,200)
Total Revenue	\$0	(\$6,200)	(\$6,200)
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$6,200)	(\$6,200)
Net Impact, General/Education Funds	\$0	(\$6,200)	(\$6,200)

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Approximately 20 private investigators may spend an additional \$2,400 to purchase required liability insurance, for a net impact of \$48,000 each year.