

## S.B. 177

# SECURITY AGENCY QUALIFICATION AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

MARCH 9, 2011 11:13 AM

Representative **Keith Grover** proposes the following amendments:

1. Page 1, Line 10:

10 discipline of private investigators and exempts certified public accountants .

2. Page 1, Line 17:

17 {~~and~~}

3. Page 1, Line 19:

19 registrant or an apprentice ; and  
► clarifies that certified public accountants are exempted from licensure as a private investigator .

4. Page 1, Line 25:

25 AMENDS:  
= 53-9-102, as last amended by Laws of Utah 2001, Chapter 330 =

5. Page 2, Line 38:

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

**Section 1. Section 53-9-102 is amended to read:**

**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; ~~{or}~~

(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.

**Please renumber remaining sections accordingly.**