WEST VIRGINIA CODE CHAPTER 30 ARTICLE 18

WV Legislature

§30-18-1. Definitions.

For the purposes of this article, except where the context clearly requires otherwise, the following terms shall have the meanings ascribed to them:

(1) "Applicant" means a person who files a completed application as required by sections three and six of this article to be licensed to conduct a private investigation business or a security guard business. When a person other than a natural person is applying for a license, the applicant shall be the person whose qualifications are presented to meet the experience or education requirements of sections two or five of this article.

(2) "Private investigation business" means the business of doing an investigation or investigations, for hire, reward or any other type of remuneration, to obtain information about:

(A) A crime which is alleged to have occurred or is threatened to occur;

(B) The habits, activities, conduct, movements, location, associations, transactions, reputation or character of any person;

(C) The credibility of witnesses or other persons;

(D) The location or recovery of lost or stolen property;

(E) The causes or origins of any fire, accident or injury to any property, real or personal, or to identify or locate any person or persons responsible for any such fire, accident or injury;

(F) The truth or falsity of any statement or representation, whether written or oral, or of any type of depiction;

(G) Any matters which constitute evidence or which may lead to the discovery of evidence to be used before any judicial or quasijudicial tribunal, including, but not limited to, civil or criminal courts, administrative agencies, investigating committees, or boards of award or arbitration;

(H) The whereabouts of any missing or kidnapped person;

(I) The affiliation, connection or relationship of any person with any corporation or other business entity, union, organization, society or association, or with any official, member or representative thereof;

(J) Any person or persons seeking employment in the place of any employee or employees who have quit work by reason of any strike; or

(K) The conduct, honesty, efficiency, loyalty or activities of employees, agents, contractors and subcontractors.

WV Legislature

(3) "Firm license" means the license held by a person whom the Secretary of State has authorized to operate a private detective investigative firm or security guard firm after such person has filed and completed an application pursuant to the application requirements contained in sections three or six and has satisfied the eligibility requirements contained in sections two or five.

(4) "Person" means a natural person, a group of persons or individuals acting individually or as a group, a corporation, company, partnership, association, society, firm, or any business organization or entity organized or existing under the laws of this or any other state or country;

(5) (A) "Private detective" or "private investigator" means a person who is licensed pursuant to the provisions of this article to conduct a private investigation business, as defined in subdivision (2) of this section, and who conducts such business individually and independently from any private detective or investigative firm;

(B) "Private detective" or "private investigator" does not include:

(i) Any individual while acting as an adjuster for an insurance company or companies;

(ii) Individuals employed exclusively and regularly by only one employer in connection with the affairs of such employer only;

(iii) An officer or employee of the United States, or any law-enforcement officer of this state or any political subdivision thereof, while such officer or employee is engaged in the performance of his official duties or while working for a private employer in his off-duty hours;

(iv) Attorneys or counselors-at-law or any employee or representative of such attorney or counselor;

(v) Any corporation duly authorized by this state to operate central burglar or fire alarm protection business; or

(vii) Any investigator of crime appointed by a prosecuting attorney of a county pursuant to the provisions of section two, article four, chapter seven of this code.

(6) "Private detective or investigative firm" means any private detective agency or business or any investigative agency or business that is operated by a licensed private detective or investigator and which employs one or more other persons who actually conduct the private investigation business as defined in subdivision (2) of this section.

(7) (A) "Security guard" means a person who is licensed pursuant to the provisions of this article to conduct a security guard business, as defined in subdivision (8) of this section, and who conducts such business individually and independently from a security guard firm.

WV Legislature

(B) "Security guard" does not include a person who is employed exclusively and regularly by only one employer in connection with the affairs of such employer only, or a person who is otherwise hereinafter excluded from the requirements of this article;

(8) (A) "Security guard business" means the business of furnishing, for hire, reward or other remuneration, watchmen, guards, bodyguards, private patrolmen or other persons, to:

(i) Protect property, real or personal, or any person;

(ii) To prevent theft, unlawful taking, misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, notes or other valuable documents, papers and articles of value; or

(iii) To furnish for hire, guard dogs or armored motor vehicle security services, in connection with the protection of persons or property;

(B) "Security guard business" does not include any activities or duties for which it is necessary to be trained and certified as a law-enforcement officer in accordance with the provisions of article twenty-nine, chapter thirty of this code.

(9) "Security guard firm" means any security guard agency or business that is operated by a licensed security guard and which employs one or more other persons who actually conduct a security guard business as defined in subdivision (8) of this section.

WV Legislature

§30-18-2. Eligibility requirements for license to conduct the private investigation business.

(a) In order to be eligible for any license to conduct the private investigation business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct a private investigation business or to conduct a security guard business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless a court has subsequently determined that the applicant's competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

(6) Be of good moral character;

(7) Have a minimum of one year of experience, education, or training in any one of the following areas, or some combination thereof:

(A) Course work that is relevant to the private investigation business at an accredited college or university;

(B) Employment as a member of any United States government investigative agency, employment as a member of a state or local law-enforcement agency, or service as a sheriff;

(C) Employment by a licensed private investigative or detective agency for the purpose of conducting the private investigation business;

(D) Service as a magistrate in this state; or

(E) Any other substantially equivalent training or experience; or

(F) Military service.

(8) Not have been convicted of a felony in this state or any other state or territory;

(9) Not have been convicted of any of the following:

(A) Illegally using, carrying, or possessing a pistol or other dangerous weapon;

WV Legislature

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs;

(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and

(10) Not have violated any provision of §30-18-8 of this code.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his or her conviction, shall have received an executive pardon therefor, removing this disability.

(b) Any person who qualifies for a private investigator's license shall also be qualified to conduct security guard business upon notifying the Secretary of State in writing that the person will be conducting such business.

(c) No person may be employed as a licensed private investigator while serving as magistrate.

WV Legislature

§30-18-3. Application requirements for a license to conduct the private investigation business.

(a) To be licensed to be a private detective, a private investigator or to operate a private detective or investigative firm, each applicant shall file an application with the Secretary of State in a manner or method authorized and in such form as the secretary may prescribe.

(b) On the application each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state, and any other information requested by the Secretary of State in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information must be provided in addition to that required to be provided by the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs, either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state; and

(3) Any facts as may be required by the Secretary of State to show the good character, competency and integrity of the applicant.

To qualify for a firm license, the applicant shall provide such information for each person who will be authorized to conduct the private investigation business and for each officer, member, or partner of the firm.

(e) As part of the application, each applicant shall give the Secretary of State permission to review the records held by the West Virginia State Police for any convictions that may be on record for the applicant.

(f) For each applicant applying for a license, the application shall be accompanied by one recent full-face photograph.

(g) For each applicant, the application shall be accompanied by:

WV Legislature

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct the private investigation business; and

(2) A nonrefundable application processing service charge of $50, which shall be payable to the Secretary of State to offset the cost of license review and criminal investigation background report from the West Virginia State Police, along with a license fee of $100 if the applicant is an individual, or $200 if the applicant is a firm. The license fee shall be deposited to the General Revenue Fund and shall be refunded only if the license is denied.

(h) All applicants for private detective or private investigator licenses or for private investigation firm licenses shall file in the office of Secretary of State a surety bond or sufficient proof of liability insurance as required by the Secretary of State.

(i) If a surety bond is obtained in lieu of liability insurance, such bond shall:

(1) Be in the sum of $5,000 and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the Insurance Commissioner of West Virginia and approved by the Attorney General of West Virginia with respect to its form;

(3) Be in favor of the State of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

(j) Any person claiming against the bond required by subsection (i) of this section for a violation of this article may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under §30-18-12 of this code and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

WV Legislature

§30-18-4. Requirements for employees conducting the private investigation business under a firm license.

(a) Any person who has a private detective firm or investigative firm license shall be responsible for supervising any employee or other individual who conducts the private investigation business under the authority of such person's firm license, regardless of whether such employee or other individual receives compensation for conducting such business. Such supervision shall include providing any education or training that is reasonably necessary to ensure compliance with the requirements of this article.

(b) Any employee or individual who conducts the private investigation business under the authority of a private detective or investigative firm license shall:

(1) Satisfy the requirements of section two of this article, except that such person need not satisfy the education and training requirements contained in subdivision (7) of section two; and

(2) Authorize the Secretary of State to review the records held by the division of public safety for any convictions that may be on record for such employee or individual.

(c) A holder of a private detective or investigative firm license is prohibited from authorizing any individual or employee to conduct a private investigation business if such individual does not comply with the requirements of this section.

(d) For every employee or individual who conducts the business of private investigation under the authority of a private detective or investigative firm license, the holder of such license must maintain a recent full-face photograph and one complete set of fingerprints on file at such firm's central business location in this state. Upon request, the holder of the firm license must release the photographs and fingerprints to the Secretary of State.

WV Legislature

§30-18-5. Eligibility requirements to be licensed to conduct security guard business.

(a) In order to be eligible for any license to conduct security guard business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct security guard business or to conduct the private investigation business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless said court has subsequently determined that the applicant's competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

(6) Have had at least one year verified, full time employment conducting security guard business or conducting the private investigation business working for a licensed firm or have one year of substantially equivalent training or experience;

(7) Not have been convicted of a felony in this state or any other state or territory;

(8) Not have been convicted of any of the following:

(A) Illegally using, carrying, or possessing a pistol or other dangerous weapon;

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs; and

(9) Not have violated any provision of §30-18-8 of this code.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his or her conviction, shall have received an executive pardon therefor, removing this disability.

WV Legislature

§30-18-6. Application requirements for a license to conduct security guard business.

(a) To be licensed as a security guard or to operate a security guard firm, each applicant shall file a written application, under oath, and file an application with the Secretary of State in a manner or method authorized and in such form as the secretary may prescribe.

(b) On the application, each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state, and any other information requested by the Secretary of State in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town, or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information shall be provided in addition to that required to be provided the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs, either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state;

(3) Any facts as may be required by the Secretary of State to show the good character, competency, and integrity of the applicant; and

(4) To qualify for a firm license, the same information for each person who would be authorized to conduct security guard business under the applicant's firm license and for each officer, member, or partner in the firm.

(e) As part of the application, each applicant shall give the Secretary of State permission to review the records held by the West Virginia State Police for any convictions that may be on record for the applicant.

(f) For each applicant for a license, the application shall be accompanied by one recent full-face photograph of the applicant.

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have

WV Legislature

known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct security guard business; and

(2) A nonrefundable application processing service charge of $50, which shall be payable to the Secretary of State to offset the cost of license review and criminal investigation background report from the West Virginia State Police, along with a license fee of $100 if the applicant is an individual, or $200 if the applicant is a firm. The license fee shall be deposited to the General Revenue Fund, and shall be refunded only if the license is denied.

(h) All applicants for security guard licenses or security guard firm licenses shall file in the office of the Secretary of State a surety bond or sufficient proof of liability insurance as required by the Secretary of State.

(i) If a surety bond is obtained in lieu of liability insurance, such bond shall:

(1) Be in the sum of $5,000 and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the Insurance Commissioner of West Virginia and the Attorney General of West Virginia with respect to its form;

(3) Be in favor of the State of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

(j) Any person claiming against the bond required by subsection (i) of this section for a violation of this article may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under §30-18-12 of this code and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

WV Legislature

§30-18-7. Requirements for employees conducting security guard business under a firm license.

(a) Any person who has a security guard firm license shall be responsible for supervising any employee or other individual who conducts security guard business under the authority of such person's firm license, regardless of whether such employee or other individual receives compensation for conducting such business. Such supervision shall include providing any education or training that is reasonably necessary to ensure compliance with the requirements of this article.

(b) Any employee or individual who conducts security guard business under the authority of a firm license shall:

(1) Satisfy the requirements of section five of this article, except that such person need not satisfy the prior employment requirements contained in subdivision (7) of section five; and

(2) Authorize the Secretary of State to review the records held by the department of public safety for any convictions that may be on record for such employee or individual.

(c) A holder of a security guard firm license is prohibited from authorizing any individual or employee to conduct security guard business if such individual does not comply with the requirements of this section.

(d) For every employee or individual who conducts security guard business under the authority of a security guard firm license, the holder of such license must maintain a recent full-face photograph and one complete set of fingerprints on file at such firm's central business location in this state. Upon request, the holder of the firm license must release the photographs and fingerprints to the Secretary of State.

WV Legislature

§30-18-8. Prohibitions.

(a) No person shall engage in the private investigation business or security guard business without having first obtained from the Secretary of State a license to conduct such business.

(b) All licensed persons, including private detectives, private investigators, security guards, private detective or investigative firms and security guard firms, are prohibited from transferring their licenses to an unlicensed person, firm or agency. This prohibition includes contracting or subcontracting with an unlicensed person, firm or agency to conduct the private investigation business or security guard business.

(c) It is unlawful for any person subject to the provisions of this article to knowingly commit any of the following:

(1) Employ any individual to perform the duties of an employee who has not first complied with all provisions of this article and the adopted regulations;

(2) Falsely represent that a person is the holder of a valid license;

(3) Make a false report with respect to any matter with which he or she is employed;

(4) Divulge any information acquired from or for a client to persons other than the client or his or her authorized agent without express authorization to do so or unless required by law;

(5) Accept employment which includes obtaining information intended for illegal purposes;

(6) Authorize or permit another person to violate any provision of this article or any rule of the Secretary of State adopted for this article.

WV Legislature

§30-18-9. Renewal of license.

A license granted under the provisions of this article shall be in effect for two years from the date the certificate of license is issued and may be renewed for a period of two years by the Secretary of State upon application, in such form as the secretary may prescribe, and upon payment of the fee and the filing of the surety bond or proof of liability insurance. At the time of applying for renewal of a license, the Secretary of State may require any person to provide additional information to reflect any changes in the original application or any previous renewal. Any fee charged by the Secretary of State for renewal of a license shall not exceed $50.

WV Legislature

§30-18-10. Authority of Secretary of State.

(a) When the Secretary of State is satisfied as to the good character, competency, and integrity of an applicant, of all employees or individuals conducting the private investigation business or security guard services under a firm license and, if the applicant is a firm, of each member, officer or partner, he or she shall issue and deliver to the applicant a certificate of license. Each license issued shall be for a period of two years and is revocable at all times for cause shown pursuant to subsection (b) of this section or any rules promulgated pursuant thereto.

(b) The Secretary of State may propose for promulgation in accordance with the provisions of chapter 29A of this code legislative rules necessary for the administration and enforcement of this article and for the issuance, suspension, and revocation of licenses issued under the provisions of this article. The Secretary of State shall afford any applicant an opportunity to be heard in person or by counsel when a determination is made to deny, revoke, or suspend an applicant's license or application for license, including a renewal of a license. The applicant has 15 days from the date of receiving written notice of the Secretary of State's adverse determination to request a hearing on the matter of denial, suspension, or revocation. The action of the Secretary of State in granting, renewing, or in refusing to grant or to renew, a license is subject to review by the circuit court of Kanawha County or other court of competent jurisdiction.

(c) At any hearing before the Secretary of State to challenge an adverse determination by the Secretary of State on the matter of a denial, suspension, or revocation of a license, if the adverse determination is based upon a conviction for a crime which would bar licensure under the provisions of this article, the hearing shall be an identity hearing only and the sole issue which may be contested is whether the person whose application is denied or whose license is suspended or revoked is the same person convicted of the crime.

(d) The Secretary of State shall require each applicant to submit to a state and national criminal history record check, as set forth in this subsection:

(1) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(2) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints for the purposes set forth in this section, if required by the Secretary of State, West Virginia State Police, or the Federal Bureau of Investigation; and

(B) Authorizing the Secretary of State, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

WV Legislature

(3) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(4) The criminal history record check and related records are not public records for the purposes of chapter 29B of this code.

(5) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(6) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

WV Legislature

§30-18-11. Penalties.

(a) Any person, licensed or unlicensed, who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than $100 nor more than $5,000 or be confined in jail for not more than one year, or both.

(b) In the case of a violation of subsection (a) of section eight, a fine is assessed by the court for each day that an individual conducted the private investigation business or security guard business. In the case of a firm license, the fine is based on each day that the private investigative or security services were provided multiplied by the number of unauthorized persons providing those services.

WV Legislature

§30-18-12. Action for damages.

Any individual who is injured by a violation of this article may bring an action for recovery of damages, including punitive damages plus reasonable attorney's fees and court costs.

WV Legislature

§30-18-13. Disposition of fees.

All fees collected hereunder by the Secretary of State shall be paid to the treasurer of the state and deposited in the General Revenue Fund.

WV Legislature