

1 HB232  
2 146444-5  
3 By Representative Buttram  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 12-FEB-13

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ENROLLED, An Act,

To amend Sections 34-27C-3, 34-27C-4, 34-27C-7, 34-27C-14, and 34-27C-17, Code of Alabama 1975, relating to the Alabama Security Regulatory Board; to authorize the operation of out-of-state security companies in the state upon the declaration of a state of emergency; to provide further for a criminal history background check for applicants and for fees for licensing and certification; to clarify language; to provide that an appeal from a final action of the board would be to the Montgomery County Circuit Court; and to provide further for exemptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-27C-3, 34-27C-4, 34-27C-7, 34-27C-14, and 34-27C-17 of the Code of Alabama 1975, are amended to read as follows:

"§34-27C-3.

"(a) The board shall have the following powers:

"(1) In accordance with the Administrative Procedure Act, to promulgate rules not in conflict with the laws of this state which are reasonable, proper, and necessary to carry out the functions of the board in the regulation of persons engaged in providing security officers within this state. Any interested person may petition the board to adopt, amend, or repeal any rule and the board shall prescribe by rule any

1 necessary forms for petitions and procedures for submission,  
2 consideration, and disposition of petitions.

3 "(2) To enforce compliance with this chapter.

4 "(3) To establish rules and procedures for the  
5 preparation and processing of examinations, applications,  
6 license certificates, certification cards, renewals, appeals,  
7 hearings, and rule making proceedings.

8 "(4) To determine the qualifications of licensees,  
9 certified trainers, and security officers consistent with this  
10 chapter.

11 "(5) To levy and collect fees in amounts determined  
12 necessary by the board for licensing, application processing,  
13 background checks, including fingerprints, inspections,  
14 investigations, and hearings.

15 "(6) To employ or contract for necessary personnel,  
16 including a director, pursuant to the state Merit System,  
17 provided such persons are employed by the board on a full-time  
18 basis exceeding 32 hours per calendar week, and provide for  
19 necessary offices, supplies, and equipment to fulfill the  
20 requirements of this chapter.

21 "(7) To delegate its power and duties by resolution  
22 to a named designee.

23 "(8) To enter into contracts and expend funds of the  
24 board to fulfill the requirements of this chapter.

25 "(9) To borrow money.

1           "(10) To work with the Attorney General and other  
2 law enforcement agencies to prohibit and punish any violation  
3 of this chapter.

4           "(11) To establish volunteer procedures for those  
5 persons or businesses that are exempt from this chapter.

6           "(12) To engage in dialogue and to enter into  
7 reciprocal licensing agreements with governmental entities in  
8 other states that supervise and regulate the provision of  
9 private contract security services in order to ensure that  
10 security officers and armed security officers licensed by the  
11 State of Alabama have full reciprocity to operate in other  
12 states.

13           "(13) Upon the declaration of the Governor of a  
14 state of emergency, to authorize the operation of out-of-state  
15 contract security companies and staff within the state for the  
16 duration of the state of emergency, and up to a maximum of 30  
17 days after the expiration of the state of emergency. To be  
18 eligible to operate within the state pursuant to this  
19 subdivision, the out-of-state contract security company shall  
20 satisfy all of the following requirements:

21           "a. Be licensed in another state in which the  
22 qualifications, insurance, training, and other requirements  
23 for licensure are substantially similar to those required by  
24 this chapter, as determined by the board.

1           "b. Provide notice to the board of an intention to  
2 operate in the state and submit to the board any information  
3 requested by the board.

4           "(14) To inspect the business premises of any  
5 licensee during normal business hours.

6           The inspection of a licensed contract security  
7 company shall be limited to an inspection of training records.  
8 The inspection of an unlicensed contract security company  
9 shall be limited to licensure compliance.

10           "(b) All powers granted in this chapter and any  
11 other powers granted to the board are public and governmental  
12 functions, exercised for a public purpose, and matters of  
13 public necessity.

14           "§34-27C-4.

15           "(a) Commencing on May 21, 2009, any security guard,  
16 armed security guard, or contract security company providing  
17 private security services in this state shall apply to the  
18 board for a license. Any security guard, armed security guard,  
19 or contract security company providing security services in  
20 this state before May 21, 2009, may continue to engage in  
21 business operations pending a final determination by the  
22 board, provided such security guard, armed security guard, or  
23 contract security company files an application for license.  
24 This chapter shall not abrogate the terms of a contract  
25 existing on May 21, 2009.

1           "(b) An application for licensure shall include all  
2 of the following information:

3           "(1) The full name, home address, post office box,  
4 and actual street address of the business of the applicant.

5           "(2) The name under which the applicant intends to  
6 do business.

7           "(3) The full name and address of any partners in  
8 the business, principal officers, directors, and business  
9 manager, if applicable.

10           "(4) The names of at least three unrelated and  
11 disinterested persons to be used as references for board  
12 inquiries regarding the character, standing, and reputation of  
13 the applicant.

14           "(5) Such other information, evidence, statements,  
15 or documents as may be required by the board.

16           "(c) (1) A contract security company applying for a  
17 license shall include proof that the business entity has at  
18 least one person in its employ serving as a qualifying agent  
19 who is licensed by the board as a security guard that, in  
20 addition to meeting the requirements of subsection (d),  
21 possesses three years of experience as a manager, supervisor,  
22 or administrator with a contract security company or possesses  
23 three years of supervisory experience with any federal,  
24 military, state, county, or municipal law enforcement agency.

1           "(2) No person may serve as the qualifying agent for  
2 more than one contract security company without prior written  
3 approval of the board.

4           "(3) A contract security company shall notify the  
5 board within 10 working days if the qualifying agent for the  
6 company ceases to perform his or her duties as qualifying  
7 agent and shall obtain a substitute qualifying agent within 30  
8 days after the original qualifying agent ceases to serve. The  
9 board may grant an extension to the company for good cause,  
10 for not more than three months.

11           "(d) Every applicant for licensure shall provide the  
12 following to the board:

13           "(1) Proof that the applicant is 21 years of age or  
14 older, or 18 years of age if the person is not allowed to  
15 carry any type of firearm in the course of his or her  
16 employment with the contract security company.

17           "(2) Proof that the applicant is a citizen of the  
18 United States or, if not a citizen of the United States, a  
19 person who is legally present in the United States with  
20 appropriate documentation from the federal government.

21           "(3) A statement of the applicant, made under oath,  
22 declaring all of the following:

23           "a. That he or she has never been convicted in any  
24 jurisdiction of the United States of any felony or crime

1 involving moral turpitude for which a full pardon has not been  
2 granted.

3 "b. That he or she has never been declared, by any  
4 court of competent jurisdiction, incompetent by reason of  
5 mental defect or disease, and competency has not been  
6 restored.

7 "c. That he or she is not suffering from habitual  
8 drunkenness or from narcotics addiction or dependence. The  
9 board may require certified results of medical tests for drug  
10 or alcohol use.

11 "(e) In addition to the requirements of subsection  
12 (d), an applicant for certification or renewal shall submit to  
13 the board a form, sworn to by the applicant, containing the  
14 name, date of birth, and Social Security number, ~~and two~~  
15 ~~complete sets of fingerprints of the applicant, any other~~  
16 ~~identifying information as determined necessary by the board,~~  
17 ~~and a signed statement by the applicant consenting to a~~  
18 ~~criminal background check. The board shall forward the~~  
19 ~~completed form to the Alabama Department of Public Safety, and~~  
20 ~~the department shall then conduct a criminal background check~~  
21 ~~of the applicant. The results of the background check shall be~~  
22 ~~sent to the board for its consideration. for completion of a~~  
23 ~~criminal history background check. The applicant shall submit~~  
24 ~~two complete sets of fingerprints to the board. The board~~  
25 ~~shall submit the fingerprints to the Alabama Bureau of~~

1 Investigation (ABI) for a state criminal history record check.  
2 The fingerprints shall be forwarded by the ABI to the Federal  
3 Bureau of Investigation (FBI) for a national criminal history  
4 record check. Costs associated with conducting a criminal  
5 history background check shall be borne by the applicant. The  
6 board shall keep information received pursuant to this section  
7 confidential, except that such information received and relied  
8 upon in denying the issuance of a certificate of qualification  
9 for a license to a security officer in this state may be  
10 disclosed if necessary to support the denial.

11 "(f) Applications for licensure shall be filed with  
12 the board on a form developed by the board. The board shall  
13 prescribe the procedures and methods of submission,  
14 consideration, and disposition of applications. An applicant  
15 corporation incorporated under the laws of this state or any  
16 other state shall be required to qualify with a certificate of  
17 authority issued by the Secretary of State and shall designate  
18 an agent for service of process. The applicant shall be issued  
19 a license or denied a license in writing within a reasonable  
20 period after receipt by the board of all required information.

21 "(g) (1) Each contract security company requesting or  
22 renewing a license shall pay a security license fee ~~of two~~  
23 ~~hundred dollars (\$200) to the board upon application. If the~~  
24 ~~license is not issued or renewed, the board shall refund one~~  
25 ~~hundred dollars (\$100) of the fee to the company to be~~

1 determined by the board that does not exceed five hundred  
2 dollars (\$500) three hundred fifty dollars (\$350) and may not  
3 be increased more than fifty dollars (\$50) per licensing  
4 period. A license shall expire on September 30 and an  
5 application for renewal shall be submitted to the board before  
6 October 1. A renewal application may not be accepted by the  
7 board after October 31. The board may impose a reasonable late  
8 fee on renewals not filed by October 1. The board shall  
9 promptly notify an applicant if the board refuses to issue or  
10 renew a license. An applicant or licensee may appeal any  
11 decision of the board and may request a hearing, in accordance  
12 with the Administrative Procedure Act, on the decision of the  
13 board to refuse to issue or renew a license. A licensee may  
14 continue to engage in the security business while his or her  
15 renewal application is pending.

16 "(2) Each security officer or armed security officer  
17 requesting or renewing a license shall pay a nonrefundable  
18 security license fee of ~~twenty-five dollars (\$25)~~ to the board  
19 upon application to be determined by the board that does not  
20 exceed one hundred fifty dollars (\$150) one hundred dollars  
21 (\$100) and may not be increased more than twenty-five dollars  
22 (\$25) per licensing period. The license issued to a security  
23 officer or armed security officer shall expire two years from  
24 the date of issuance. If the board refuses to issue or renew a  
25 license, the applicant or licensee shall be promptly notified.

1 The applicant or licensee may appeal any decision of the board  
2 and may request a hearing, in accordance with the  
3 Administrative Procedure Act, on the refusal of the board to  
4 issue or renew a license. A licensee may continue to serve as  
5 a security officer or armed security officer while his or her  
6 renewal application is pending. The board may impose a  
7 reasonable late fee on renewals not filed before the date of  
8 expiration of the license.

9 "(h) No license issued pursuant to this chapter  
10 shall be assigned or transferred by operation of law or in any  
11 other manner. A new license for an assignee or transferee of a  
12 business shall be applied for using the same procedures and  
13 requirements as set forth in this chapter for an initial  
14 license applicant. The security operation of a security  
15 company may continue until the final disposition of the  
16 pending license application.

17 "(i) The current license certificate or duplicate  
18 copy of the certificate shall be posted and displayed at all  
19 times at all business offices of the licensee within the  
20 state.

21 "(j) The board shall be notified within 30 days of  
22 any changes in officers, directors, or management of a  
23 licensee or any changes that may reasonably affect the right  
24 of a licensee to hold a license under this chapter.

25 "§34-27C-7.

1           "(a) Within 30 days after initial employment, a  
2 security officer or armed security officer shall apply to the  
3 board for ~~certification~~ a license. On or after May 21, 2009,  
4 all security officers or armed security officers not exempted  
5 under Section 34-27C-17, shall apply to the board for  
6 ~~certification~~ a license in accordance with this chapter. A  
7 ~~certification~~ license card issued by the board shall be  
8 carried by each security officer and armed security officer  
9 while performing his or her duties. A temporary card may be  
10 issued by the board pending the completion of training.  
11 ~~Certification~~ Licensure shall be renewed every two years on  
12 the date which original certification was granted.

13           "(b) Each applicant for ~~certification~~ licensure or  
14 renewal of ~~certification~~ licensure shall submit to the board,  
15 within 30 days after initial employment or 30 days before  
16 ~~certification~~ licensure expiration, the appropriate form as  
17 developed by the board, a fee of twenty-five dollars (\$25),  
18 and proof of completion of a certified training program or  
19 refresher course.

20           "(c) ~~Certification~~ Licensure shall be denied or may  
21 be revoked if a security officer or armed security officer  
22 does not meet the standards of a security officer or armed  
23 security officer established by the board pursuant to this  
24 chapter. In the event of denial or revocation of ~~certification~~  
25 a license by the board, the applicant may appeal the action of

1 the board. Upon receipt of a notice of appeal from the  
2 applicant, the board shall set a hearing date and promptly  
3 notify the applicant of the hearing date. The hearing shall be  
4 held in accordance with the Administrative Procedure Act.

5 "(d) A contract security company shall notify the  
6 board within 10 days after discovering any adverse information  
7 pertaining to the eligibility of an individual to be ~~certified~~  
8 licensed as a security officer or armed security officer.

9 "(e) The board may issue a ~~certificate~~ license to a  
10 security officer who has been ~~certified~~ licensed as a security  
11 officer in another state if the board determines that the  
12 applicant is currently a resident of this state and the  
13 qualifying and training requirements of the issuing state are  
14 equivalent to those required by this chapter.

15 "(f) A security officer or armed security officer  
16 who works as such for six months or less per year may pay a  
17 one time fee for special licensure by the board. Any security  
18 officer or armed security officer who works as such for more  
19 than six months in a year shall be subject to all fees and  
20 requirements of this chapter. The one time fee may not exceed  
21 one hundred dollars (\$100).

22 "§34-27C-14.

23 "Any person or entity aggrieved by any final action  
24 of the board may appeal to ~~any circuit court of this state~~ the  
25 Circuit Court of Montgomery County.

1           "§34-27C-17.

2           "The following persons and entities, including  
3 affiliated entities under common control, are exempt from this  
4 chapter:

5           "(1) Any person or entity which uses the employees  
6 of the person or entity for security services.

7           "(2) Any employee who provides security services  
8 only for his or her employer and not for any third party.

9           "(3) A sworn peace officer who only provides  
10 security services within the scope of his or her employment  
11 with a public entity and who does not contract for or  
12 otherwise provide in any manner private contract security  
13 services.

14           "~~(4) Any person who is employed with a contract  
15 security company which employs, or has an employer-employee  
16 relationship with, collectively less than 100 security  
17 officers or armed security officers, or both.~~

18           "~~(5) A contract security company which employs, or  
19 has an employer-employee relationship with, collectively less  
20 than 100 security officers or armed security officers, or  
21 both.~~

22           "~~(6) Any person 65 years of age or older who works  
23 as a security officer, seeks employment as a security officer,  
24 or contracts to provide security services directly to an~~

1 ~~individual business or businesses, unless the person works for~~  
2 ~~an entity covered by this chapter."~~

3           Section 2. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.

