

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

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8 SYNOPSIS: Under existing law, the Alabama Security
9 Regulatory Board provides a professional licensing
10 board for security officers employed in this state.

11 Under existing law, a security company or a
12 security officer pays a fee to request or renew a
13 license.

14 Under existing law, certain individuals and
15 entities are exempt from control by the board.

16 Under existing law, applicants for licensure
17 are required to submit to a background check.

18 This bill would authorize the operation of
19 out-of-state contract security companies within the
20 state upon the declaration of a state of emergency.

21 This bill would provide further for a
22 criminal background check.

23 This bill would allow the board to determine
24 the licensure fees.

25 This bill would cap the fees.

26 This bill would clarify language.

1 This bill would provide that an appeal from
2 a final action of the board would be to the
3 Montgomery County Circuit Court.

4 This bill would also remove certain
5 individuals and entities from exemptions.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 34-27C-3, 34-27C-4, 34-27C-7,
12 34-27C-14, and 34-27C-17, Code of Alabama 1975, relating to
13 the Alabama Security Regulatory Board; to authorize the
14 operation of out-of-state security companies in the state upon
15 the declaration of a state of emergency; to provide further
16 for a criminal history background check for applicants and for
17 fees for licensing and certification; to clarify language; to
18 provide that an appeal from a final action of the board would
19 be to the Montgomery County Circuit Court; and to provide
20 further for exemptions.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 34-27C-3, 34-27C-4, 34-27C-7,
23 34-27C-14, and 34-27C-17 of the Code of Alabama 1975, are
24 amended to read as follows:

25 "§34-27C-3.

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

1 "(1) In accordance with the Administrative Procedure
2 Act, to promulgate rules not in conflict with the laws of this
3 state which are reasonable, proper, and necessary to carry out
4 the functions of the board in the regulation of persons
5 engaged in providing security officers within this state. Any
6 interested person may petition the board to adopt, amend, or
7 repeal any rule and the board shall prescribe by rule any
8 necessary forms for petitions and procedures for submission,
9 consideration, and disposition of petitions.

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

11 "(3) To establish rules and procedures for the
12 preparation and processing of examinations, applications,
13 license certificates, certification cards, renewals, appeals,
14 hearings, and rule making proceedings.

15 "(4) To determine the qualifications of licensees,
16 certified trainers, and security officers consistent with this
17 chapter.

18 "(5) To levy and collect fees in amounts determined
19 necessary by the board for licensing, application processing,
20 background checks, including fingerprints, inspections,
21 investigations, and hearings.

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

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

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

5 "(9) To borrow money.

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

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

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

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

26 "a. Be licensed in another state in which the
27 qualifications, insurance, training, and other requirements

1 for licensure are substantially similar to those required by
2 this chapter, as determined by the board.

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

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

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

12 "§34-27C-4.

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

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

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

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

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

6 "(4) The names of at least three unrelated and
7 disinterested persons to be used as references for board
8 inquiries regarding the character, standing, and reputation of
9 the applicant.

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

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

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

24 "(3) A contract security company shall notify the
25 board within 10 working days if the qualifying agent for the
26 company ceases to perform his or her duties as qualifying
27 agent and shall obtain a substitute qualifying agent within 30

1 days after the original qualifying agent ceases to serve. The
2 board may grant an extension to the company for good cause,
3 for not more than three months.

4 "(d) Every applicant for licensure shall provide the
5 following to the board:

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

10 "(2) Proof that the applicant is a citizen of the
11 United States or, if not a citizen of the United States, a
12 person who is legally present in the United States with
13 appropriate documentation from the federal government.

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

16 "a. That he or she has never been convicted in any
17 jurisdiction of the United States of any felony or crime
18 involving moral turpitude for which a full pardon has not been
19 granted.

20 "b. That he or she has never been declared, by any
21 court of competent jurisdiction, incompetent by reason of
22 mental defect or disease, and competency has not been
23 restored.

24 "c. That he or she is not suffering from habitual
25 drunkenness or from narcotics addiction or dependence. The
26 board may require certified results of medical tests for drug
27 or alcohol use.

1 "(e) In addition to the requirements of subsection
2 (d), an applicant for certification or renewal shall submit to
3 the board a form, sworn to by the applicant, containing the
4 name, date of birth, and Social Security number, ~~and two~~
5 ~~complete sets of fingerprints of the applicant, any other~~
6 ~~identifying information as determined necessary by the board,~~
7 ~~and a signed statement by the applicant consenting to a~~
8 ~~criminal background check. The board shall forward the~~
9 ~~completed form to the Alabama Department of Public Safety, and~~
10 ~~the department shall then conduct a criminal background check~~
11 ~~of the applicant. The results of the background check shall be~~
12 ~~sent to the board for its consideration.~~ for completion of a
13 criminal history background check. The applicant shall submit
14 two complete sets of fingerprints to the board. The board
15 shall submit the fingerprints to the Alabama Bureau of
16 Investigation (ABI) for a state criminal history record check.
17 The fingerprints shall be forwarded by the ABI to the Federal
18 Bureau of Investigation (FBI) for a national criminal history
19 record check. Costs associated with conducting a criminal
20 history background check shall be borne by the applicant. The
21 board shall keep information received pursuant to this section
22 confidential, except that such information received and relied
23 upon in denying the issuance of a certificate of qualification
24 for a license to a security officer in this state may be
25 disclosed if necessary to support the denial.

26 "(f) Applications for licensure shall be filed with
27 the board on a form developed by the board. The board shall

1 prescribe the procedures and methods of submission,
2 consideration, and disposition of applications. An applicant
3 corporation incorporated under the laws of this state or any
4 other state shall be required to qualify with a certificate of
5 authority issued by the Secretary of State and shall designate
6 an agent for service of process. The applicant shall be issued
7 a license or denied a license in writing within a reasonable
8 period after receipt by the board of all required information.

9 "(g) (1) Each contract security company requesting or
10 renewing a license shall pay a security license fee ~~of two~~
11 ~~hundred dollars (\$200) to the board upon application. If the~~
12 ~~license is not issued or renewed, the board shall refund one~~
13 ~~hundred dollars (\$100) of the fee to the company to be~~
14 determined by the board that does not exceed five hundred
15 dollars (\$500) and may not be increased more than fifty
16 dollars (\$50) per licensing period. A license shall expire on
17 September 30 and an application for renewal shall be submitted
18 to the board before October 1. A renewal application may not
19 be accepted by the board after October 31. The board may
20 impose a reasonable late fee on renewals not filed by October
21 1. The board shall promptly notify an applicant if the board
22 refuses to issue or renew a license. An applicant or licensee
23 may appeal any decision of the board and may request a
24 hearing, in accordance with the Administrative Procedure Act,
25 on the decision of the board to refuse to issue or renew a
26 license. A licensee may continue to engage in the security
27 business while his or her renewal application is pending.

1 "(2) Each security officer or armed security officer
2 requesting or renewing a license shall pay a nonrefundable
3 security license fee ~~of twenty-five dollars (\$25)~~ to the board
4 upon application to be determined by the board that does not
5 exceed one hundred fifty dollars (\$150) and may not be
6 increased more than twenty-five dollars (\$25) per licensing
7 period. The license issued to a security officer or armed
8 security officer shall expire two years from the date of
9 issuance. If the board refuses to issue or renew a license,
10 the applicant or licensee shall be promptly notified. The
11 applicant or licensee may appeal any decision of the board and
12 may request a hearing, in accordance with the Administrative
13 Procedure Act, on the refusal of the board to issue or renew a
14 license. A licensee may continue to serve as a security
15 officer or armed security officer while his or her renewal
16 application is pending. The board may impose a reasonable late
17 fee on renewals not filed before the date of expiration of the
18 license.

19 "(h) No license issued pursuant to this chapter
20 shall be assigned or transferred by operation of law or in any
21 other manner. A new license for an assignee or transferee of a
22 business shall be applied for using the same procedures and
23 requirements as set forth in this chapter for an initial
24 license applicant. The security operation of a security
25 company may continue until the final disposition of the
26 pending license application.

1 "(i) The current license certificate or duplicate
2 copy of the certificate shall be posted and displayed at all
3 times at all business offices of the licensee within the
4 state.

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

9 "§34-27C-7.

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

22 "(b) Each applicant for ~~certification~~ licensure or
23 renewal of ~~certification~~ licensure shall submit to the board,
24 within 30 days after initial employment or 30 days before
25 ~~certification~~ licensure expiration, the appropriate form as
26 developed by the board, a fee of twenty-five dollars (\$25),

1 and proof of completion of a certified training program or
2 refresher course.

3 "(c) ~~Certification~~ Licensure shall be denied or may
4 be revoked if a security officer or armed security officer
5 does not meet the standards of a security officer or armed
6 security officer established by the board pursuant to this
7 chapter. In the event of denial or revocation of ~~certification~~
8 a license by the board, the applicant may appeal the action of
9 the board. Upon receipt of a notice of appeal from the
10 applicant, the board shall set a hearing date and promptly
11 notify the applicant of the hearing date. The hearing shall be
12 held in accordance with the Administrative Procedure Act.

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

17 "(e) The board may issue a ~~certificate~~ license to a
18 security officer who has been ~~certified~~ licensed as a security
19 officer in another state if the board determines that the
20 applicant is currently a resident of this state and the
21 qualifying and training requirements of the issuing state are
22 equivalent to those required by this chapter.

23 "§34-27C-14.

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

27 "§34-27C-17.

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

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

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

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

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

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

21 ~~"(6) Any person 65 years of age or older who works
22 as a security officer, seeks employment as a security officer,
23 or contracts to provide security services directly to an
24 individual business or businesses, unless the person works for
25 an entity covered by this chapter."~~

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