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2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1808

5 By: Representatives Lowery, Linck  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING LICENSING OF  
9 POLYGRAPH EXAMINERS; AND FOR OTHER PURPOSES.  
10

### Subtitle

11 TO AMEND THE LAW CONCERNING LICENSING OF  
12 POLYGRAPH EXAMINERS.  
13

14  
15  
16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code § 17-39-101 is amended to read as follows:  
20 17-39-101. Title.

21 This chapter shall be known and may be cited as the "Polygraph  
22 Examiners Licensing Act".  
23

24 SECTION 2. Arkansas Code § 17-39-102 is amended to read as follows:  
25 17-39-102. Definitions.

26 As used in this chapter:

27 (1) "Administrator" means the Administrator of the Arkansas  
28 Board of Private Investigators and Private Security Agencies;

29 (2) "Board" means the Arkansas Board of Private Investigators  
30 and Private Security Agencies created by § 17-40-201;

31 (3) "Intern" means a person who holds a valid Polygraph Examiner  
32 Intern license by the board;

33 ~~(2)(4)~~ "Internship" means the study of polygraph examinations  
34 and of the administration of polygraph examinations by a ~~trainee~~ an intern  
35 under the personal supervision and control of a licensed polygraph examiner  
36 ~~in accordance with a course of study prescribed by the board at the~~



1 ~~commencement of the internship~~ as authorized by the board;

2 ~~(3)~~(5) "Person" means any natural person, firm, association,  
3 copartnership, or corporation; and

4 ~~(4)~~(6) "Polygraph examiner" means any person who uses any device  
5 or instrument to test or question individuals for the purpose of verifying  
6 truth of statements; ~~and~~

7 ~~(5) "Secretary" means that member of the board selected by the~~  
8 ~~board to act as secretary.~~

9  
10 SECTION 3. Arkansas Code § 17-39-103 is amended to read as follows:

11 17-39-103. Penalties.

12 Any person who violates any provision of this chapter or any person who  
13 falsely states or represents that he or she has been or is a properly  
14 licensed polygraph examiner or ~~trainee~~ intern shall be guilty of a  
15 misdemeanor. Upon conviction, that person shall be punished by a fine of not  
16 less than one hundred dollars (\$100) nor more than one thousand dollars  
17 (\$1,000) or by imprisonment in the county jail for a term of not to exceed  
18 six (6) months, or both.

19  
20 SECTION 4. Arkansas Code § 17-39-104 is amended to read as follows:

21 17-39-104. Injunction.

22 (a) If any person violates any provisions of this chapter, the  
23 ~~Secretary~~ Administrator of the Arkansas Board of Private Investigators and  
24 Private Security Agencies, upon direction of a majority of the ~~Arkansas Board~~  
25 ~~of Private Investigators and Private Security Agencies~~ board and in the name  
26 of the State of Arkansas, through the Arkansas Attorney General, shall apply  
27 in any circuit court of competent jurisdiction for an order enjoining the  
28 violation or for an order enforcing compliance with this chapter.

29 (b) Upon the filing of a verified petition in the court, the court or  
30 any judge thereof, if satisfied by affidavit or otherwise that the person has  
31 violated this chapter, may issue a temporary injunction, without notice or  
32 bond, enjoining the continued violation. If it is established that the person  
33 has violated or is violating this chapter, the court or any judge thereof may  
34 enter a decree perpetually enjoining the violation or enforcing compliance  
35 with this chapter.

36 (c) In case of violation of any order or decree issued under the

1 provisions of this section, the court or any judge thereof may try and punish  
 2 the offender for contempt of court.

3 (d) Proceeding under this section shall be in addition to, and not in  
 4 lieu of, all other remedies and penalties provided by this chapter.

5  
 6 SECTION 5. Arkansas Code § 17-39-105 is amended to read as follows:

7 17-39-105. Evidence.

8 Nothing in this chapter shall be construed as permitting the results of  
 9 ~~truth examinations or~~ polygraph examinations to be introduced or admitted as  
 10 evidence in a court of criminal law.

11  
 12 SECTION 6. Arkansas Code § 17-39-106 is amended to read as follows:

13 17-39-106. Board – Powers and duties.

14 (a) The Arkansas Board of Private Investigators and Private Security  
 15 Agencies is authorized and empowered to perform and carry out the functions  
 16 and duties enumerated in this chapter with respect to the licensing of  
 17 polygraph examiners and to do and perform all other acts incidental and  
 18 necessary to the proper performance of the functions and duties as prescribed  
 19 in this chapter.

20 (b) The board shall issue ~~regulations~~ rules consistent with the  
 21 provisions of this chapter for the administration and enforcement of this  
 22 chapter and shall prescribe forms which shall be issued in connection  
 23 therewith.

24 (c) An order or a certified copy thereof, over the board seal and  
 25 purporting to be signed by the board members, shall be prima facie proof that  
 26 the signatures are the genuine signatures of the board members and that the  
 27 board members are fully qualified to act.

28 (d) The position of Administrator of the Arkansas Board of Private  
 29 Investigators and Private Security Agencies is created. The Director of the  
 30 Department of Arkansas State Police, or his or her designated representative,  
 31 shall serve as the administrator. The administrator shall not be a member of  
 32 the board, shall perform duties prescribed by the board, and shall have no  
 33 financial or business interests, contingent or otherwise, in any security  
 34 services contractor or investigating company.

35 (e) All legal process and all documents required by law to be served  
 36 upon or filed with the board shall be served or filed with the administrator

1 at the designated office of the board.

2 (f) All official records of the board or affidavits by the  
 3 administrator as to the content of the records shall be prima facie evidence  
 4 of all matters required to be kept by the board.

5  
 6 SECTION 7. Arkansas Code § 17-39-107 is amended to read as follows:

7 17-39-107. Disposition of funds.

8 (a) All fees collected under the provisions of this chapter shall be  
 9 ~~paid to the Treasurer of State.~~

10 ~~(b) Funds necessary for the enforcement of this chapter and the~~  
 11 ~~administration of its provisions shall be appropriated by the General~~  
 12 ~~Assembly. However, the funds so appropriated for a biennium shall not exceed~~  
 13 ~~the total amount of the fees which it is anticipated will be collected~~  
 14 ~~hereunder during that biennium deposited into the State Treasury to the~~  
 15 ~~credit of the Department of Arkansas State Police Fund.~~

16 (b)(1) All funds received by the Arkansas Board of Private  
 17 Investigators and Private Security Agencies shall be deposited into the State  
 18 Treasury as special revenues to the credit of the fund.

19 (2) Money remaining at the end of the fiscal year shall not  
 20 revert to any other fund but shall carry over to the next fiscal year.

21  
 22 SECTION 8. Arkansas Code § 17-39-108 is repealed.

23 ~~17-39-108. Registration.~~

24 ~~Each polygraph examiner shall register with the circuit clerk in the~~  
 25 ~~county wherein he or she maintains a business address. The circuit clerk of~~  
 26 ~~each county shall maintain a list of all polygraph examiners registered in~~  
 27 ~~his or her county.~~

28  
 29 SECTION 9. Arkansas Code § 17-39-109 is amended to read as follows:

30 17-39-109. Instrumentation.

31 (a) Every polygraph examiner shall use an instrument which records  
 32 visually, permanently, and simultaneously:

33 (1) A subject's cardiovascular pattern; ~~and~~

34 (2) Electrodermal activity; and

35 ~~(2)(3)~~ A subject's respiratory pattern.

36 (b) Patterns of other physiological changes in addition to those

1 described in this section may also be recorded.

2  
 3 SECTION 10. Arkansas Code § 17-39-201 is amended to read as follows:  
 4 17-39-201. License required.

5 (a) It shall be unlawful for any person, including a city, county, or  
 6 state employee, to administer polygraph examinations or attempt to hold  
 7 himself or herself out as a polygraph examiner without a license approved and  
 8 issued by the Arkansas Board of Private Investigators and Private Security  
 9 Agencies.

10 ~~(b) No action or counterclaim shall be maintained by any person in any~~  
 11 ~~court in this state with respect to any agreement or service for which a~~  
 12 ~~license is required by this chapter, or to recover the agreed price or any~~  
 13 ~~compensation under the agreement, or for the services for which a license is~~  
 14 ~~required by this chapter without alleging and proving that the person had a~~  
 15 ~~valid license at the time of making the agreement or performing the services.~~

16  
 17 SECTION 11. Arkansas Code § 17-39-202 is amended to read as follows:  
 18 17-39-202. Qualifications.

19 (a) A person is qualified to receive a license as an examiner who:

20 (1) Is at least twenty-one (21) years of age;

21 (2) ~~Establishes that he or she is a person of honesty,~~  
 22 ~~truthfulness, integrity, and moral fitness;~~

23 ~~(3) Has not been convicted of a~~ found guilty of or pleaded  
 24 guilty or "nolo contendere" to a felony or a misdemeanor involving moral  
 25 turpitude;

26 ~~(4)(3)~~ Holds a baccalaureate degree from a college or university  
 27 accredited by the American Association of Collegiate Registrars and  
 28 Admissions Officers or, in lieu thereof, has five (5) consecutive years of  
 29 active investigative experience immediately preceding his or her application;  
 30 and

31 ~~(5)(4)~~ Is a graduate of a polygraph examiners course approved by  
 32 the Arkansas Board of Private Investigators and Private Security Agencies and  
 33 has satisfactorily completed not less than six (6) months of internship  
 34 training. ~~Provided, that if the applicant is not a graduate of an approved~~  
 35 ~~polygraph examiners course, satisfactory completion of not less than twelve~~  
 36 ~~(12) months of internship training may satisfy this subdivision (a)(5); and~~

1           ~~(6) Has passed an examination conducted by the Board or under~~  
 2 ~~its supervision to determine his or her competency to obtain a license to~~  
 3 ~~practice as an examiner.~~

4           (b) Prior to the issuance of a license, the applicant must furnish  
 5 evidence of a surety bond or insurance policy to the board. The surety bond  
 6 or insurance policy shall be in the sum of ~~one~~ five thousand dollars ~~(\$1,000)~~  
 7 (\$5,000). The bond shall be conditioned that the obligor therein will pay to  
 8 the extent of the face amount of the surety bond or insurance policy all  
 9 judgments which may be recovered against the licensee by reason of any  
 10 wrongful or illegal acts committed by him or her in the course of his or her  
 11 examinations.

12  
 13           SECTION 12. Arkansas Code § 17-39-203 is amended to read as follows:  
 14           17-39-203.     Original application.

15           (a) Applications for original licenses shall be made to the ~~Secretary~~  
 16 Administrator of the Arkansas Board of Private Investigators and Private  
 17 Security Agencies in writing under oath on forms prescribed by the ~~Arkansas~~  
 18 ~~Board of Private Investigators and Private Security Agencies~~ board and shall  
 19 be accompanied by the required fee, which is not refundable.

20           (b) Any such application shall require the information that in the  
 21 judgment of the board will enable it to pass on the qualifications of the  
 22 applicant for a license.

23  
 24           SECTION 13. Arkansas Code § 17-39-204 is amended to read as follows:  
 25           17-39-204. ~~Nonresident applicants~~ Agent for service for nonresident  
 26 interns and licensees.

27           ~~(a) Each nonresident applicant for an original license or a renewal~~  
 28 license In addition to other application requirements a licensee or intern  
 29 who does not maintain a place of business in Arkansas shall file with the  
 30 Arkansas Board of Private Investigators and Private Security Agencies an  
 31 irrevocable consent that:

32           (1) Actions against the applicant may be filed in any  
 33 appropriate court of any county or municipality of this state in which the  
 34 plaintiff resides or in which some part of the transaction occurred out of  
 35 which the alleged cause of action arose; and

36           (2) Process on the action may be served on the applicant by

1 leaving two (2) copies thereof with the ~~Secretary~~ Administrator of the  
 2 Arkansas Board of Private Investigators and Private Security Agencies.

3 (b) The consent shall stipulate and agree that the service of process  
 4 shall be taken and held to be valid and binding for all purposes.

5 (c) The ~~secretary~~ administrator shall immediately send one (1) copy of  
 6 the process to the applicant at the address shown on the records of the board  
 7 by registered or certified mail.

8 ~~(d) Nonresident applicants must satisfy the requirements of § 17-39-~~  
 9 ~~202.~~

10  
 11 SECTION 14. Arkansas Code § 17-39-205 is amended to read as follows:  
 12 17-39-205. Reciprocity License based on reciprocity.

13 An applicant who is a polygraph examiner licensed under the laws of  
 14 another state ~~or territory~~ of the United States may be issued a two-year  
 15 license ~~without examination~~ by the Arkansas Board of Private Investigators  
 16 and Private Security Agencies, ~~in its discretion~~, upon payment of a fee of  
 17 ~~sixty dollars (\$60.00)~~ one hundred and twenty dollars (\$120) and the  
 18 production of satisfactory proof that the licensee meets the requirements of  
 19 this section:

20 (1) The applicant must meet the requirements of §17-39-202;

21 (2) The applicant is at least twenty-one (21) years of age;

22 ~~(2) The applicant is of good moral character;~~

23 (3) The requirements of §17-39-202 (3) and (4) may be waived by  
 24 the board for the licensing of polygraph examiners in the particular state or  
 25 territory of the United States were at the date of the applicant's licensing  
 26 therein substantially equivalent to the requirements now in force in this  
 27 state;

28 (4) The applicant had lawfully engaged in the administration of  
 29 polygraph examinations under the laws of that state ~~or territory~~ for at least  
 30 two (2) years prior to his or her application for a license under this  
 31 chapter; and

32 (5) The other state ~~or territory~~ grants similar reciprocity to  
 33 license holders of this state; ~~and~~

34 ~~(6) The applicant has complied with § 17-39-204.~~

35  
 36 SECTION 15. Arkansas Code § 17-39-206 is amended to read as follows:

1 17-39-206. Internship license.

2 (a) Upon approval by the Administrator of the Arkansas Board of  
 3 Private Investigators and Private Security Agencies, ~~the Secretary~~  
 4 ~~administrator of the Arkansas Board of Private Investigators and Private~~  
 5 ~~Security Agencies~~ shall issue an internship license to a ~~trainee~~ an intern,  
 6 provided that he or she applies for the license and pays the required fee  
 7 within ten (10) days prior to the commencement of his or her internship. The  
 8 application shall contain such information as may be required by the board.

9 (b) A person is qualified to receive an intern license if he or she:

10 (1) Is at least twenty-one (21) years of age;

11 (2) Has not been found guilty of or pleaded guilty or nolo  
 12 contendere to any crime of a felony or a misdemeanor involving moral  
 13 turpitude;

14 (3) Holds a baccalaureate degree from a college or university  
 15 accredited by the American Association of Collegiate Registrars and  
 16 Admissions Officers or, in lieu thereof, has five (5) consecutive years of  
 17 active investigative experience immediately preceding his or her application;

18 (4) Is a graduate of a polygraph examiners course approved by  
 19 the board.

20 (c) An internship license shall be valid for the term of twelve (12)  
 21 months from the date of issue. It may be ~~extended or~~ renewed for any term not  
 22 to exceed six (6) months upon good cause shown to the board.

23 ~~(e) A trainee shall not be entitled to hold an internship license~~  
 24 ~~after the expiration of the original twelve month period and six month~~  
 25 ~~extension, if the extension is granted by the Board, until twelve (12) months~~  
 26 ~~after the date of expiration of the last internship license held by the~~  
 27 ~~trainee.~~

28  
 29 SECTION 16. Arkansas Code § 17-39-207 is amended to read as follows:

30 17-39-207. Examination - Fees.

31 ~~(a) The fee to be paid by an applicant for an examination to determine~~  
 32 ~~his or her fitness to receive a polygraph examiner's license is twenty~~  
 33 ~~dollars (\$20.00), which is not to be credited as payment against the license~~  
 34 ~~fee.~~

35 (b) The fees to be paid for licenses shall be as follows:

36 (1) For an original two-year polygraph examiner's license, ~~sixty~~



1 ~~dollars (\$60.00)~~ one hundred twenty dollars (\$120);

2 (2) For ~~an~~ a one-year or less internship license, thirty dollars  
3 (\$30.00);

4 (3) For the issuance of a duplicate polygraph examiner's license  
5 or internship license, ten dollars (\$10.00) fifteen dollars (\$15.00);

6 (4) For a polygraph examiner's two-year renewal license, ~~twenty-~~  
7 ~~five dollars (\$25.00)~~ fifty dollars (\$50.00);

8 (5) For the ~~extension or~~ renewal of an internship license past  
9 six (6) months, twenty-five dollars (\$25.00); and

10 (6) ~~For a duplicate internship license, ten dollars (\$10.00)~~ For  
11 the issuance of an optional wallet-size polygraph examiner licensee or intern  
12 photo identification card, fifteen dollars (\$15.00).

13 ~~(c) The fees required by this chapter may be paid by the governmental~~  
14 ~~agency employing the examiner.~~

15  
16 SECTION 17. Arkansas Code § 17-39-208 is amended to read as follows:

17 17-39-208. Display of license and signature.

18 ~~(a) A license or duplicate license~~ or the photo identification card  
19 issued by the Arkansas Board of Private Investigators and Private Security  
20 Agencies must be prominently displayed at the place of business of the  
21 polygraph examiner or at the place of internship.

22 ~~(b) Each license shall be signed by the members of the Arkansas Board~~  
23 ~~of Private Investigators and Private Security Agencies and shall be issued~~  
24 ~~under the seal of the board.~~

25  
26 SECTION 18. Arkansas Code § 17-39-209 is amended to read as follows:

27 17-39-209. Notification of address change.

28 ~~(a) Notice in writing shall be given to the Secretary of the Arkansas~~  
29 ~~Board of Private Investigators and Private Security Agencies~~ Administrator of  
30 the Arkansas Board of Private Investigators and Private Security Agencies by  
31 the licensed examiner of any change of principal business location within  
32 thirty (30) days of the time he or she changes the location.

33 ~~(b) A change of business location without notification to the~~  
34 ~~secretary shall automatically suspend the license theretofore issued.~~

35  
36 SECTION 19. Arkansas Code § 17-39-210 is amended to read as follows:

1 17-39-210. Expiration and renewal.

2 (a) Each polygraph examiner's license shall be issued for the term of  
3 ~~one (1) year~~ two (2) years and, unless suspended or revoked, shall be renewed  
4 ~~annually as~~ with such documentation as may be prescribed by the Arkansas  
5 Board of Private Investigators and Private Security Agencies.

6 (b) A polygraph examiner whose license has expired less than six (6)  
7 months may ~~obtain at any time within two (2) years after the expiration~~  
8 ~~thereof a renewal~~ renew the license ~~without examination~~ by making a renewal  
9 application ~~therefor and satisfying § 17-39-202(a)(2) and (3),~~ paying the  
10 renewal fees and a late fee of twenty dollars (\$20.00).

11 (c) However, any polygraph examiner whose license has been expired for  
12 more than six months shall be deemed permanently expired, and the licensee  
13 shall begin the process again as a new applicant.

14 (d) The calculation of the late fee or expiration time may be waived  
15 for a person who demonstrates that while he or she was ~~in the federal service~~  
16 on active duty with the armed forces of the United States, or the National  
17 Guard at the time of expiration ~~called into service or training, or in~~  
18 ~~training or education under the supervision of the United States preliminary~~  
19 ~~to induction into the military service may have his or her license renewed~~  
20 ~~without examination if within two (2) years after termination of such~~  
21 ~~service, training, or education, except under conditions other than~~  
22 ~~honorable, he or she furnishes the Board with an affidavit to the effect that~~  
23 ~~he or she has been so engaged and that his or her service, training, or~~  
24 ~~education has been so terminated. Section 17-39-202(a)(2) and (3) must also~~  
25 ~~be satisfied.~~

26 (e) The requirements, as set out by the board, must be met before  
27 renewal, including:

28 (1) Payment of all necessary fees; and

29 (2) Providing the board with proof of continuing polygraph  
30 examiner education of at least fourteen (14) hours received in the most  
31 recent two-year period by a training course approved by the board.

32  
33 SECTION 20. Arkansas Code § 17-39-211 is amended to read as follows:

34 17-39-211. Refusal, denial, suspension, revocation – Grounds.

35 The Arkansas Board of Private Investigators and Private Security  
36 Agencies ~~may refuse to issue or may~~ deny, suspend, or revoke a license on any

1 one (1) or more of the following grounds:

2 (1) Failure to inform a subject to be examined as to the nature  
3 of the examination;

4 (2) Failure to inform a subject to be examined that his or her  
5 participation in the examination is voluntary;

6 (3) Any violation of the rules or laws of the board or failure to  
7 meet the qualifications for licensure;

8 ~~(3)(4)~~ Material misstatement in the any application for ~~original~~  
9 license ~~or in the application for any renewal license~~ under this chapter;

10 ~~(4)~~ Willful disregard or violation of this chapter or of any  
11 regulation or rule issued pursuant thereto, including, but not limited to,  
12 willfully making a false report concerning an examination for polygraph  
13 examination purposes;

14 ~~(5)~~ If the holder of any license has been adjudged guilty of the  
15 commission of a felony or a misdemeanor involving moral turpitude;

16 ~~(6)~~(5) Willful Any misrepresentation or false promises or  
17 causing to be printed any false or misleading advertisement for the purpose  
18 of directly or indirectly obtaining business or ~~trainees~~ interns;

19 ~~(7)~~(6) Demonstration of unworthiness or incompetency to act as a  
20 polygraph examiner as defined by this chapter;

21 ~~(8)~~(7) Allowing one's license under this chapter to be used by  
22 any unlicensed person in violation of the provisions of this chapter;

23 ~~(9)~~(8) Willfully aiding or abetting another in the violation of  
24 this chapter ~~or any regulation~~ or rule issued pursuant to it;

25 ~~(10)~~ When the license holder has been adjudged as an habitual  
26 drunkard or mental incompetent as provided in the Probate Code;

27 ~~(11)~~(9) Failure within a reasonable time to provide information  
28 requested by the ~~Secretary of the Arkansas Board of Private Investigators and~~  
29 ~~Private Security Agencies~~ Administrator of the Arkansas Board of Private  
30 Investigators and Private Security Agencies as the result of a formal  
31 complaint to the board, which would indicate a violation of this chapter; or

32 ~~(12)~~(10) Failure to inform the subject of the polygraph  
33 examination of the results of the examination if so requested.

34  
35 SECTION 22. Arkansas Code § 17-39-212 is amended to read as follows:

36 17-39-212. ~~Employer unaffected by employee violation~~ Background

1 checks.

2 ~~Any unlawful act or violation of any of the provisions of this chapter~~  
 3 ~~on the part of any polygraph examiner or trainee shall not be cause for~~  
 4 ~~revocation of the license of any one (1) other polygraph examiner for whom~~  
 5 ~~the offending polygraph examiner or trainee may have been employed, unless it~~  
 6 ~~shall appear to the satisfaction of the Arkansas Board of Private~~  
 7 ~~Investigators and Private Security Agencies that the polygraph examiner-~~  
 8 ~~employer has willfully or negligently aided or abetted the illegal actions or~~  
 9 ~~activities of the offending polygraph examiner or trainee.~~

10 (a) Each first-time applicant and applicant for license renewal shall  
 11 be required to apply to the Identification Bureau of the Department of  
 12 Arkansas State Police for a state and national criminal background check to  
 13 be conducted by the Identification Bureau of the Department of Arkansas State  
 14 Police and the Federal Bureau of Investigation.

15 (b) The check shall conform to applicable federal standards and shall  
 16 include the taking of fingerprints.

17 (c) The applicant shall sign a release of information to the Arkansas  
 18 Board of Private Investigators and Private Security Agencies and shall be  
 19 responsible for the payment of any fee associated with the criminal  
 20 background check.

21 (d) Upon completion of the criminal background check, the  
 22 Identification Bureau of the Department of Arkansas State Police shall  
 23 forward to the board all releasable information obtained concerning the  
 24 applicant.

25  
 26 SECTION 23. Arkansas Code § 17-39-213 is amended to read as follows:

27 17-39-213. Refusal, denial, suspension, revocation – Proceedings.

28 (a)(1) When there is cause to ~~refuse~~ deny an application or ~~cause to~~  
 29 suspend or revoke the license of any polygraph examiner, the Arkansas Board  
 30 of Private Investigators and Private Security Agencies not less than thirty  
 31 (30) days before ~~refusal~~ denial, suspension, or revocation action is taken,  
 32 shall notify the person in writing, in person, or by certified mail at the  
 33 last address supplied to the board by the person. This notice shall include  
 34 notification of the impending ~~refusal~~ denial, suspension, or revocation, the  
 35 reasons therefor, and of his or her right to an administrative hearing for  
 36 the purpose of determining whether or not the evidence is sufficient to

1 warrant the ~~refusal~~ denial, suspension, or revocation action proposed to be  
2 taken by the board.

3 (2) ~~If, within twenty (20) days after the personal service of~~  
4 ~~notice or notice has been deposited into the United States mail, the person~~  
5 ~~has not made a written request to the Board for this administrative hearing,~~  
6 ~~then the Board is authorized to suspend or revoke the polygraph examiner's~~  
7 ~~license of the person without a hearing.~~

8 ~~(3) Upon receipt by the board of the written request within the~~  
9 ~~twenty day period as set out in subdivision (a)(2) of this section, an~~  
10 opportunity for an administrative hearing shall be afforded as early as is  
11 practicable.

12 ~~(4) In no case shall the hearing be held fewer than ten (10)~~  
13 ~~days after written notification thereof, including a copy of the charges,~~  
14 ~~shall have been given the person by personal service or by certified mail~~  
15 ~~sent to the last address supplied to the Board by the applicant or licensee.~~

16 ~~(5)(3) The administrative hearing in those cases shall be before~~  
17 the board.

18 (b)(1) The board shall conduct the administrative hearings, and it is  
19 authorized to administer oaths and issue subpoenas for the attendance of  
20 witnesses and the production of relevant books, papers, documents, etc.

21 (2) On the basis of the evidence submitted at the hearing, the  
22 ~~board~~ Administrator of the Arkansas Board of Private Investigators and  
23 Private Security Agencies shall take whatever action it deems necessary in  
24 ~~refusing~~ denying the application or suspending or revoking the license.

25 (c)(1) Upon the revocation or suspension of any license, the licensee  
26 shall immediately surrender the license or licenses to the ~~Secretary~~  
27 administrator of the ~~Arkansas Board of Private Investigators and Private~~  
28 ~~Security Agencies~~ board.

29 (2) Failure of a licensee to do so shall be a violation of this  
30 chapter, and upon conviction the licensee shall be subject to the penalties  
31 set forth in § 17-39-103.

32 (3) At any time after the suspension or revocation of any  
33 license, the ~~secretary~~ administrator shall restore it to the former licensee  
34 upon the written recommendations of the board.

35  
36 SECTION 24. Arkansas Code § 17-39-214 is amended to read as follows:

1 17-39-214. Refusal, suspension, revocation – Appeal.

2 (a) Any person dissatisfied with the action of the Arkansas Board of  
 3 Private Investigators and Private Security Agencies in ~~refusing~~ denying, ~~his~~  
 4 ~~or her application or~~ suspending, or revoking his or her license, ~~or any~~  
 5 ~~other action of the board,~~ may appeal under the Arkansas Administrative  
 6 Procedures Act. ~~the action of the Board by filing a petition within thirty~~  
 7 ~~(30) days thereafter in the circuit court in the county where the person~~  
 8 ~~resides or in the Pulaski County Circuit Court.~~

9 (b) ~~The court is vested with jurisdiction, and it shall be the duty of~~  
 10 ~~the court to set the matter for hearing upon ten (10) days' written notice to~~  
 11 ~~the Board and the attorney representing the board.~~

12 (c) ~~The court in which the petition of appeal is filed shall determine~~  
 13 ~~whether or not a cancellation or suspension of a license shall be abated~~  
 14 ~~until the hearing shall have been consummated with final judgment thereon or~~  
 15 ~~whether any other action of the board should be suspended pending hearing.~~  
 16 ~~The court shall enter its order accordingly. The order shall be operative~~  
 17 ~~when served upon the board. The court shall provide the attorney representing~~  
 18 ~~the Board with a copy of the petition and order.~~

19 (d)(b) The board shall be represented in such appeals by the  
 20 ~~prosecuting attorney of the county or the Attorney General, or any of their~~  
 21 his or her assistants.

22 (e) ~~The board shall initially determine all facts, but the court upon~~  
 23 ~~appeal shall set aside the determination of the board if the board's~~  
 24 ~~determination:~~

25 (1) ~~Is not based upon substantial evidence upon the entire~~  
 26 ~~record;~~

27 (2) ~~Is arbitrary or capricious;~~

28 (3) ~~Is in violation of statutory requirements; or~~

29 (4) ~~Was made without affording to the licensee or applicant due~~  
 30 ~~process of law.~~

31  
 32 SECTION 25. Arkansas Code Title 17, Chapter 39, Subchapter 2, is  
 33 amended to add an additional section to read as follows:

34 17-39-215. Rules.

35 The Arkansas Board of Private Investigators and Private Security  
 36 Agencies may promulgate rules to permit the efficient administration of this

1 subchapter.

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**APPROVED: 04/12/2013**

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