

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

583

By: Senators Hopkins and Walters

For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE 17,
CHAPTER 33, RELATING TO THE ARKANSAS PRIVATE INVESTIGATORS
AND PRIVATE SECURITY AGENCIES ACT; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 17-33-102 is hereby amended to read as follows:

" 17-33-102. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Board" means the Arkansas Board of Private Investigators and Private Security Agencies;
- (2) "Person" means an individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity;
- (3) "Investigations company" means any person who engages in the business or accepts employment to obtain or furnish information with reference to:
 - (A) Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America;
 - (B) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;
 - (C) The location, disposition, or recovery of lost or stolen property;
 - (D) The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property; or
 - (E) The securing of evidence to be used before any court, board, officer, or investigating committee;

(4) "Guard company" means any person engaging in the business of or undertaking to provide a private watchman, guard, or street patrol service on a contractual basis for another person and performing any one or more of the following or similar functions:

(A) Prevention of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

(B) Prevention, observation, or detection of any unauthorized activity on private property;

(C) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of property; or

(D) Protection of individuals from bodily harm;

(5) "Armored car company" means any person that provides armed security transportation and protection, from one (1) place or point to another place or point, of money, currency, coins, bullion, securities, bonds, jewelry, or other valuables;

(6) "Alarm Systems Company" means any person, firm, association, or corporation which for a fee or other valuable consideration installs, services, performs a survey of the premises to be protected, monitors, or responds to electrical, electronic or mechanical alarm signal devices, burglar alarms, television cameras or still cameras used to manually or automatically signal or detect burglary, fire, breaking or entering, shoplifting, pilferage, theft, or hold-up.

(7) "Security services contractor" means any guard company or armored car company;

(8) "Security department of a private business" means the security department of any person, if the security department has as its general purpose the protection and security of its own property and grounds, and if it does not offer or provide security services to any other person;

(9) "Private investigator" means any person who performs one (1) or more services as described in subdivision (3) of this section;

(10) "Private security officer" means any individual employed by a security services contractor or the security department of a private business to perform the duties of a security guard, security watchman, security patrolman, armored car guard;

(11) "Manager" means in the case of a corporation, an officer or supervisor, or in the case of a partnership, a general or unlimited partner meeting the experience qualifications set forth in § 17-33-306 for managing a security services contractor or an investigations company;

(12) "License" means a permit granted by the board entitling a person to operate as a security services contractor, an investigations company, or as an alarm systems company;

(13) "Licensee" means any person to whom a license is granted under this chapter;

(14) "Security officer commission" means an authorization granted by the board to an individual employed as a private security officer to carry a firearm;

(15) "Commissioned security officer" means any private security officer to whom a security officer commission has been issued by the board;

(16) "Registration" means a permit granted by the board to an individual to perform the duties of a private investigator, manager, or branch office manager;

(17) "Registrant" means an individual who has filed an application with the board to perform the duties of a private investigator, manager, or branch office manager;

(18) "Firearm" means, as defined in Webster's New Collegiate Dictionary, a weapon from which a shot is discharged by gunpowder;

(19) "Administrator" means the administrator of the Arkansas Board of Private Investigators and Private Security Agencies;

(20) "Undercover agent" means an individual hired by another individual, partnership, corporation, or other business entity to perform a job for that individual, partnership, corporation, or other business entity and, while performing such job, to act as an undercover agent, an employee, or an independent contractor of a licensee, but supervised by a licensee.

(21) "Alarm systems agent" means any individual employed by an alarm systems company, who performs one (1) or more services as described in subsection (6) of this section."

SECTION 2. Arkansas Code 17-33-103 (a) is hereby amended to read as follows:

"17-33-103. Exemptions.

(a) This chapter does not apply to:

(1) A person employed exclusively and regularly by one (1) employer in connection with the affairs of that employer only and where there exists an employer-employee relationship;

(2) An officer or employee of the United States of America, of this state, or of a political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) A person who has part-time or full-time employment as a law enforcement officer and who is certified by the State of Arkansas Commission on Law Enforcement Standards and Training as a law enforcement officer and receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if the person is:

(A) Employed in an employee-employer relationship; or

(B) Employed on an individual contractual basis; and

(C) Not in the employ of another law enforcement officer;

(4) A person engaged exclusively in the business of obtaining and furnishing information for purposes of credit worthiness or collecting debts or ascertaining the financial responsibility of applicants for property insurance and for indemnity or surety bonds, with respect to persons, firms, and corporations;

(5) Consumer reporting agencies as defined in 15 U.S.C. § 1681 et seq.;

(6) An attorney at law in performing his duties;

(7) Admitted insurers, insurance adjusters, agents, and insurance brokers licensed by the state performing duties in connection with insurance transacted by them;

(8) An officer, employee, or agent of a communications common carrier, as defined in 47 U.S.C. § 153(h), while engaged in the normal course of business of the carrier or protecting the carrier or a user of the services of that carrier from fraudulent, unlawful, or abusive use of services;

(9) A person who or business which sells or manufacturers alarm systems, unless such person or business performs any service as described in section (1), subsection (6) of this chapter;

(10) Installation, servicing or responding to fire alarm systems or any alarm device which is installed in a motor vehicle, aircraft, or boat.

(11) Installation of an alarm system on property owned by or leased to

the installer;

(12) Installation of fixed fire extinguisher systems by persons licensed by the Fire Extinguisher Board;

(13) Installation of a fire alarm system by a person or organization not employed by a licensee under this chapter, who holds an electrical contractor's license in the State of Arkansas, when the installation is directed, inspected, and certified by a person or organization licensed under this chapter as an alarm systems company."

SECTION 3. Arkansas Code 17-33-209 (e) is hereby amended to read as follows:

(e) (1) The fee for a Class A original license is three hundred dollars (\$300); for the renewal of a Class A license, the fee is one hundred dollars (\$100).

(2) The fee for a Class B original license is three hundred dollars (\$300); for the renewal of a Class B license, the fee is one hundred dollars (\$100).

(3) The fee for a Class C original license is four hundred dollars (\$400); for the renewal of a Class C license, the fee is one hundred fifty dollars (\$150).

(4) The fee for a Class D original license is one hundred fifty dollars (\$150); for the renewal of a Class D license, the fee is fifty dollars (\$50.00).

(5) The fee for a Class E original license is three hundred dollars (\$300); for the renewal of a Class E license, the fee is one hundred dollars (\$100).

(6) The fee for a Class F original license is one hundred fifty dollars (\$150); for the renewal of a Class F license, the fee is fifty dollars (\$50.00).

(7) The fee for a 'General' original license is six hundred dollars (\$600). For the renewal of a 'General' license, the fee is two hundred fifty dollars (\$250).

(8) A delinquency fee shall be provided by the board."

SECTION 4. Arkansas Code 17-33-301 is hereby amended by adding an additional subsections to read as follows:

"(e) It shall be unlawful and punishable as provided in Section 33 of Act 429 of 1977, as amended, the same Arkansas Code 17-33-104 for any state, county, or municipal government, or political subdivision of either, to install, service, maintain, operate, sell, or lease as lessor any burglar alarm system, fire alarm system, or other electronic security system, fire alarm system or other electronic security system on private property if a private contractor licensed to do business within the county or municipality offers such systems or services to the public within such county or municipality. The provisions of this section shall not prohibit a county or municipal government from installing, servicing, maintaining, or operating a burglar alarm system or fire alarm system on any property owned or leased by such county or municipal government.

(f) No person shall program an automatic dialing device to call any law enforcement agency, fire department, emergency health service, or any state, city, or county agency, without prior approval of the board."

SECTION 5. Arkansas Code 17-33-305 is hereby amended to read as follows:

"17-33-305. License required.

It shall be unlawful and punishable as provided in § 17-33-104 for any person to engage in the business of, or perform any service as, a private investigator, security services contractor, or alarm systems company, or to offer his services in those capacities or engage in any business or business activity required to be licensed by this chapter unless he has obtained a license under the provisions of this chapter."

SECTION 6. Arkansas Code 17-33-306 is hereby amended by adding an additional subsection to read as follows:

"(d) An applicant who applies for a license to engage in the business of an alarm systems company or his manager shall have two (2) consecutive years experience prior to the date of the application in the alarm systems field as an agent, manager, or owner of an alarm systems company, or the applicant or his manager shall have been licensed under Act 1004 of 1985 (repealed), or shall satisfy such other requirements as may be set by the board."

SECTION 7. Arkansas Code 17-33-308 (a) is hereby amended to read as follows:

"(a) No Class B, Class C, Class E, Class F, or 'General' license shall be issued to a company under this chapter unless the applicant files with the board proof of a policy of continuing public liability insurance in a sum not less than one hundred thousand dollars (\$100,000), conditioned to compensate any person for damages, including, but not limited to, bodily injury, caused by wrongful acts of the principal or its servants, officers, agents, and employees in the conduct of any business licensed by this chapter."

SECTION 8. Arkansas Code 17-33-309 (b) is hereby amended to read as follows:

"(b) For the purpose of defining the scope of licenses, the following license classifications are established:

(1) Class A: Investigations company license, covering operations as defined in § 17-33-102(3);

(2) Class B: Security services contractor license, covering operations as defined in § 17-33-102(7);

(3) Class C: Covering the operations included within Class A and Class B;

(4) Class D: A single individual operating as an investigations company with no other employees required to be licensed or registered under this chapter;

(5) Class E: Alarm systems company license, covering operations as defined in 17-33-102 (6);

(6) Class F: A single individual operating as an alarm systems company with no more than five (5) employees required to be registered under this chapter;

(7) General: Covering the operations included with Class A, Class B, and Class E."

SECTION 9. Arkansas Code 17-33-314 (c) is hereby amended to read as follows:

"(c) It shall be unlawful and punishable as provided in § 17-33-104 for any individual to make application to the board as manager or to serve as manager of an investigations company, security services contractor, or alarm systems company unless the individual intends to maintain a supervisory

position on a daily basis for the investigations company, security services contractor, or alarm systems company."

SECTION 10. Arkansas Code 17-33-325 is hereby amended to read as follows:

"17-33-325. Registration required.

Every employee of a licensee who is employed as a private investigator, manager, private security officer, or alarm system agent must be registered with the board within fourteen (14) calendar days after the commencement of the employment."

SECTION 11. Arkansas Code 17-33-326 is hereby amended to read as follows:

"17-33-326. Registration - Applicant qualifications.

(a) The minimum age of a person registered as a private investigator, or security officer under this section shall be eighteen (18) years of age.

(b) The board may promulgate by rule any additional qualifications for an individual registered under this section as a private investigator, manager, private security officer, branch office manager, or alarm systems agent, which may include provision for apprenticeship programs."

SECTION 12. Arkansas Code 17-33-328 is hereby amended to read as follows:

"17-33-328. Registration fee.

(a) The registration fee for private investigators required by this chapter shall be one hundred fifty dollars (\$150) for original registrations and fifty dollars (\$50.00) for each annual renewal registration.

(b) The registration fee for private security officers and alarm system agents shall be thirteen dollars (\$13.00) for the original registration and thirteen dollars (\$13.00) for each annual renewal registration."

SECTION 13. Arkansas Code 17-33-329 is hereby amended to read as follows:

"17-33-329. Registration - Issuance of pocket card - Transfer and fee - Cancellation.

(a) A pocket card of such size, design, and content as may be determined

by the board shall be issued to each registrant under this chapter. The date of issuance shall be noted on the pocket card, and the date of expiration shall also be noted. The pocket card shall contain a photograph and signature of the registrant and the name of the agency.

(b) The pocket card of each registrant expires one (1) year from the date of issuance and is valid regardless of what security company the registrant is employed by.

(c) When an individual to whom a pocket card has been issued terminates his position, he shall return the pocket card to the licensee within five (5) days after his date of termination.

(d) When an individual to whom a pocket card has been issued terminates his employment with a company, he must, prior to becoming employed with a different agency, notify the board in writing and pay a transfer fee for his pocket card. The transfer fee for private security officers shall be thirteen dollars (\$13.00). The transfer fee for alarm systems agents shall be thirteen dollars (\$13.00). The transfer fee for private investigators shall be fifty dollars (\$50.00).

(e) Within seven (7) days after the licensee has received the pocket card of a terminated registered employee, the licensee shall mail or deliver the pocket card to the board for cancellation, along with a letter from the licensee stating the date the registered employee terminated, the date the licensee received the pocket card of the terminated registered employee, and the cause for which or the conditions under which the registered employee terminated.

(f) Any individual who is employed by a General licensee, and is registered with the board as a private investigator or private security officer, is duly authorized to perform the duties of an alarm systems agent for the general licensee by whom he is employed, without additional fees or application."

SECTION 14. Arkansas Code Title 17, Chapter 33, Subchapter 3 is hereby amended to add the following new section:

"17-33-304. (a) The regulation of investigation, security, and alarm systems businesses shall be exclusive to the board.

(b) Licenses and employees of licensee, under the provisions of this chapter, shall not be required to obtain any authorization, permit,

franchise, or license from, or pay another fee or franchise tax to, or post bond in, any city, county, or other political subdivision of this state to engage in the business or perform any service authorized under this chapter.

(c) However, any city or county shall be permitted to require a business operating within its jurisdiction to register without fee and may adopt an ordinance to require users of alarm systems to obtain revocable permits without fee."

SECTION 15. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 16. (a) Arkansas Code 17-13-101 through 17-13- 313 relating to alarm systems licensing is hereby repealed.

(b) All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 17. EMERGENCY. It is hereby found and determined by the General Assembly that there is an urgent need to more efficiently and effectively regulate the business conducted by alarm systems agencies because of the rapid growth of this industry; that the licensing procedure for such businesses needs to be strengthened to protect the public; that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective ninety days after final adjournment of the General Assembly; that it may be necessary to extend the session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the session might result in this Act not becoming effective until after July 1, 1989, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1989. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.