

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 2787**

4 (By Delegates Morgan, Swartzmiller, Givens,  
5 Hartman, Manypenny, Michael and C. Miller)

6  
7 (Originating in the Committee on the Judiciary.)

8 [February 3, 2011]

9  
10 A BILL to repeal §30-18-1, §30-18-2, §30-18-3, §30-18-4, §30-18-5,  
11 §30-18-6, §30-18-7, §30-18-8, §30-18-9, §30-18-10, §30-18-11  
12 §30-18-12, and §30-18-13 of the Code of West Virginia, 1931,  
13 as amended; and to amend said code by adding thereto a new  
14 article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4,  
15 §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10,  
16 §15-14-11, §15-14-12, §15-14-13, §15-14-14, §15-14-15, §15-14-  
17 16, §15-14-17, §15-14-18 and §15-14-19, all relating to  
18 transferring private security services from the Secretary of  
19 State to the Division of Criminal Justice and Community  
20 Services; license requirement; authority of the Director of  
21 the Division of Justice and Community Services; rulemaking  
22 requirements; the creation of the West Virginia Private  
23 Security Fund; use of the West Virginia Private Security  
24 Fund; eligibility requirements for licensure of private  
25 investigators and security services; application requirements  
26 for license to do business as a private investigator or  
27 security services; requirements of employees under firm

1 license; license renewal requirements; complaint and  
2 investigation procedures; due process requirements; grounds  
3 for disciplinary action; hearing procedures; judicial review;  
4 criminal sanctions; providing that a single act may be  
5 evidence of pattern of practice; action for damages; and  
6 requiring a report to the Joint Committee on Government  
7 Organization.

8 *Be it enacted by the Legislature of West Virginia:*

9 "That §30-18-1, §30-18-2, §30-18-3, §30-18-4, §30-18-5, §30-  
10 18-6, §30-18-7, §30-18-8, §30-18-9, §30-18-10, §30-18-11 §30-18-12,  
11 and §30-18-13 of the Code of West Virginia, 1931, as amended, be  
12 repealed; that said code be amended by adding thereto a new  
13 article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-  
14 5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10, §15-14-11  
15 §15-14-12, §15-14-13, §15-14-14, §15-14-15, §15-14-16, §15-14-17,  
16 §15-14-18 and §15-14-19, all to read as follows:

17 **CHAPTER 15. PUBLIC SAFETY.**

18 **ARTICLE 14. SECURITY SERVICES.**

19 **§15-14-1. License Required to Practice.**

20 (a) A person may not engage in the private investigation  
21 business or security guard business without having first obtained  
22 a license to conduct the business.

23 (b) All licensed persons, including private detectives,  
24 private investigators, security guards, private detective or  
25 investigative firms and security guard firms, are prohibited from

1 transferring their licenses to an unlicensed person, firm or  
2 agency. This prohibition includes contracting or subcontracting  
3 with an unlicensed person, firm or agency to conduct the private  
4 investigation business or security guard business.

5 **§15-14-2. Definitions.**

6 For the purposes of this article, the following terms mean the  
7 following:

8 (1) "Applicant" means a person who files a completed  
9 application to be licensed to conduct a private investigation  
10 business or a security guard business.

11 (2) "Director" means the Director of the West Virginia  
12 Division of Justice and Community Services.

13 (3) "Division" means the West Virginia Division of Justice and  
14 Community Services.

15 (4) "Firm license" means the license held by a person who is  
16 authorized to operate a private detective investigative firm or  
17 security guard firm.

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

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

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

1 to occur;

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

4 (C) The credibility of witnesses or other persons;

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

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

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

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

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

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

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

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

26 (7) (A) "Private detective" or "private investigator" means a

1 person who is licensed pursuant to the provisions of this article  
2 to conduct a private investigation business, and who conducts the  
3 business individually and independently from any private detective  
4 or investigative firm;

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

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

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

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

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

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

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

23 (8) "Private detective or investigative firm" means any  
24 private detective agency or business or any investigative agency or  
25 business that is operated by a licensed private detective or  
26 investigator and which employs one or more other persons who

1 actually conduct the private investigation business

2 (9) (A) "Security guard" means a person who is licensed  
3 pursuant to the provisions of this article to conduct a security  
4 guard business, and who conducts such business individually and  
5 independently from a security guard firm.

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

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

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

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

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

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

24 (11) "Security guard firm" means any security guard agency or  
25 business that is operated by a licensed security guard and which  
26 employs one or more other persons who actually conduct a security

1 guard business.

2 **§15-14-3. Authority of the Director of the West Virginia Division**  
3 **of Justice and Community Services.**

4 (a) The director shall:

5 (1) Establish requirements for licenses and permits;

6 (2) Establish procedures for submitting, approving and  
7 rejecting applications for licenses and permits;

8 (3) Determine the qualifications of any applicant for licenses  
9 and permits;

10 (4) Prepare, conduct, administer and grade examinations for  
11 professional licenses;

12 (5) Determine the passing grade for the examinations;

13 (6) Maintain records of the examinations the division or a  
14 third party administers, including the number of persons taking the  
15 examinations and the pass and fail rate;

16 (7) Investigate alleged violations of the provisions of this  
17 article, legislative rules, orders and final decisions;

18 (8) Conduct disciplinary hearings of persons regulated;

19 (9) Determine disciplinary action and issue orders;

20 (10) Institute appropriate legal action for the enforcement of  
21 the provisions of this article;

22 (11) Maintain an accurate registry of names and addresses of  
23 all licensees;

24 (12) Create a photo identification card for licensees;

25 (13) Keep accurate and complete records of its proceedings,  
26 and certify the same as may be necessary and appropriate;

1       (14) Establish the continuing education requirements for  
2 professional licensees;

3       (15) Issue, renew, combine, deny, suspend, revoke or reinstate  
4 licenses and permits;

5       (16) Establish a fee schedule;

6       (17) Propose rules in accordance with the provisions of  
7 article three, chapter twenty-nine-a of this code to implement the  
8 provisions of this article; and

9       (18) Take all other actions necessary and proper to effectuate  
10 the purposes of this article.

11       (b) The director may:

12       (1) Contract with third parties to administer the examinations  
13 required under the provisions of this article;

14       (2) Sue and be sued in its official name as an agency of this  
15 state; and

16       (3) Confer with the Attorney General or his or her assistant  
17 in connection with legal matters and questions.

18 **§15-14-4. Rulemaking.**

19       (a) The director shall promulgate emergency rules and propose  
20 rules for legislative approval, in accordance with the provisions  
21 of article three, chapter twenty-nine-a of this code, to implement  
22 the provisions of this article, including:

23       (1) Standards and requirements for licenses;

24       (2) Procedures for examinations and reexaminations;

25       (3) Requirements for third parties to prepare and/or  
26 administer examinations and reexaminations;



- 1       (4) Educational and experience requirements;  
2       (5) The passing grade on the examinations;  
3       (6) Standards for approval of courses and curriculum;  
4       (7) Procedures for the issuance and renewal of licenses;  
5       (8) A fee schedule;  
6       (9) Continuing education requirements for professional  
7 licensees;  
8       (10) The procedures for denying, suspending, revoking,  
9 reinstating or limiting the practice of licensees;  
10       (11) Requirements for inactive or revoked licenses or permits;  
11 and  
12       (12) Any other rules necessary to effectuate the provisions of  
13 this article.

14 **§15-14-5. Fees; special revenue account; administrative fines.**

15       (a) All fees and other moneys, except administrative fines,  
16 received by the division shall be deposited in a separate special  
17 revenue fund in the State Treasury designated the "West Virginia  
18 Private Security Fund". The fund is used by the division for the  
19 administration of this article. Except as may be provided in  
20 article one of this chapter, the division retains the amount in the  
21 special revenue account from year to year. No compensation or  
22 expense incurred under this article is a charge against the General  
23 Revenue Fund.

24       (b) Any amount received as fines imposed pursuant to this  
25 article shall be deposited into the General Revenue Fund of the  
26 State Treasury.

1 §15-14-6. Eligibility requirements for license to conduct the  
2 private investigation business.

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

5 (1) Be at least eighteen years of age;

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

8 (3) Not have had any previous license or authorization to  
9 conduct a private investigation business or to conduct a security  
10 guard business revoked or any application for any authorization  
11 denied by the appropriate governmental authority in any  
12 jurisdiction;

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

17 (5) Not be an alcohol or drug abuser as these terms are  
18 defined in section eleven, article one-a, chapter twenty-seven of  
19 this code;

20 (6) Be of good moral character;

21 (7) Have a minimum of two years of experience, education or  
22 training in any one of the following areas, or some combination  
23 thereof:

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

26 (B) Employment as a member of any United States government

1 investigative agency, employment as a member of a state or local  
2 law-enforcement agency or service as a sheriff;

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

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

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

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

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

11 (A) Illegally using, carrying or possessing a firearm or other  
12 dangerous weapon;

13 (B) Making or possessing burglar's instruments;

14 (C) Buying or receiving stolen property;

15 (D) Entering a building unlawfully;

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

17 (F) Possessing or distributing illicit drugs;

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

20 (10) Not have violated any provisions of section one or  
21 subdivisions (1) through (7), subsection (g), section thirteen of  
22 this article.

23 (b) The provisions of this section do not prevent the issuance  
24 of a license to any person who, subsequent to his or her  
25 conviction, has received an executive pardon therefor, removing  
26 this disability.

1 (c) Any person who qualifies for a private investigator's  
2 license shall also be qualified to conduct security guard business  
3 upon notifying the director in writing.

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

6 **§15-14-7. Application requirements for a license to conduct the**  
7 **private investigation business.**

8 (a) To be licensed to be a private detective, a private  
9 investigator or to operate a private detective or investigative  
10 firm, each applicant shall complete and file a written application,  
11 under oath, with the director and on form as prescribed by the  
12 director.

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

20 (c) In the case of a corporation that is seeking a firm  
21 license, the application shall be signed by the president, and  
22 verified by the secretary or treasurer of such corporation and  
23 shall specify the name of the corporation, the date and place of  
24 its incorporation, the names and titles of all officers, the  
25 location of its principal place of business, and the name of the  
26 city, town or village, stating the street and number, and otherwise

1 such apt description as will reasonably indicate the location. If  
2 the corporation has been incorporated in a state other than West  
3 Virginia, a certificate of good standing from the state of  
4 incorporation must accompany the application. This information  
5 must be provided in addition to that required to be provided by the  
6 applicant.

7 (d) The applicant shall provide:

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

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

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

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

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

24 (f) For each applicant for a license and for each officer,  
25 member and partner of the firm applying for a license, the  
26 application shall be accompanied by one recent full-face photograph

1 and one complete set of the person's fingerprints.

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

4 (1) Character references from at least 5 reputable citizens.  
5 Each reference must have known the applicant for at least five  
6 years preceding the application. No reference may be connected to  
7 the applicant by blood or marriage. All references must have been  
8 written for the purpose of the application for a license to conduct  
9 the private investigation business; and

10 (2) A nonrefundable application processing service charge of  
11 \$50, which shall be payable to the director to offset the cost of  
12 license review and criminal investigation background report from  
13 the West Virginia State Police, along with a license fee of \$100 if  
14 the applicant is an individual, or \$200 if the applicant is a firm,  
15 or \$500 if the applicant is a nonresident of West Virginia or a  
16 foreign corporation or business entity.

17 (h) All applicants for private detective, private investigator  
18 or private investigation firm licenses shall file in the office of  
19 director a surety bond. Such bond shall:

20 (1) Be in the sum of \$2,500 and conditioned upon the faithful  
21 and honest conduct of such business by such applicant;

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

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

1 also be in favor of any person damaged by such a violation.

2 (i) Any person claiming against the bond required by  
3 subsection (h) of this section for a violation of this article may  
4 maintain an action at law against any licensed individual or firm  
5 and against the surety. The surety shall be liable only for  
6 damages awarded under section eighteen of this article and not the  
7 punitive damages permitted under that section. The aggregate  
8 liability of the surety to all persons damaged by a person or firm  
9 licensed under this article may not exceed the amount of the bond.

10 **§15-14-8. Requirements for employees conducting the private**  
11 **investigation business under a firm license.**

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

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

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

1 (2) Authorize the director to review the records held by the  
2 West Virginia State Police for any convictions that may be on  
3 record for such employee or individual.

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

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

15 **§15-14-9. Eligibility requirements to be licensed to conduct**  
16 **security guard business.**

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

19 (1) Be at least eighteen years of age;

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

22 (3) Not have had any previous license or authorization to  
23 conduct a security guard business or to conduct a private  
24 investigation business revoked or any application for any such  
25 licenses or registrations denied by the appropriate governmental  
26 authority in any jurisdiction;



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

5 (5) Not be an alcohol or drug abuser as these terms are  
6 defined in section eleven, article one-a, chapter twenty-seven of  
7 this code;

8 (6) Be of good moral character;

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

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

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

16 (A) Illegally using, carrying or possessing a firearm or other  
17 dangerous weapon;

18 (B) Making or possessing burglar's instruments;

19 (C) Buying or receiving stolen property;

20 (D) Entering a building unlawfully;

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

22 (F) Possessing or distributing illicit drugs;

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

25 (10) Not having violated any provision of section eight of  
26 this article.

1 (b) This section may not prevent the issuance of a license to  
2 any person who, subsequent to his or her conviction, has received  
3 an executive pardon therefor, removing this disability.

4 **§15-14-10. Application requirements for a license to conduct**  
5 **security guard business.**

6 (a) To be licensed as a security guard or to operate a  
7 security guard firm, each applicant shall complete and file a  
8 written application, under oath, with the director and on a form  
9 prescribed by the director.

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

17 (c) In the case of a corporation that is seeking a firm  
18 license, the application shall be signed by the president, and  
19 verified by the secretary or treasurer of such corporation and  
20 shall specify the name of the corporation, the date and place of  
21 its incorporation, the names and titles of all officers, the  
22 location of its principal place of business, and the name of the  
23 city, town or village, stating the street and number, and otherwise  
24 such apt description as will reasonably indicate the location. If  
25 the corporation has been incorporated in a state other than West  
26 Virginia, a certificate of good standing from the state of

1 incorporation must accompany the application. This information  
2 shall be provided in addition to that required to be provided the  
3 applicant.

4 (d) The applicant shall provide:

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

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

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

13 To qualify for a firm license, the applicant shall provide  
14 such information for each person who would be authorized to conduct  
15 security guard business under the applicant's firm license and for  
16 each officer, member or partner in the firm.

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

21 (f) For each applicant for a license and for each officer,  
22 member and partner of the firm applying for a license, the  
23 application shall be accompanied by one recent full-face photograph  
24 and one complete set of the person's fingerprints.

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

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

7       (2) A nonrefundable application processing service charge of  
8 \$50, which shall be payable to the division to offset the cost of  
9 license review and criminal investigation background report from  
10 the West Virginia State Police, along with a license fee of \$100 if  
11 the applicant is an individual, or \$200 if the applicant is a firm,  
12 or \$500 if the applicant is a nonresident of West Virginia or a  
13 foreign corporation or business entity.

14       (h) All applicants for security guard licenses or security  
15 guard firm licenses shall file in the office of director a surety  
16 bond. Such bond shall:

17       (1) Be in the sum of \$2,500 and conditioned upon the faithful  
18 and honest conduct of such business by such applicant;

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

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

25       (i) Any person claiming against the bond required by  
26 subsection (h) of this section for a violation of this article may

1 maintain an action at law against any licensed individual or firm  
2 and against the surety. The surety shall be liable only for  
3 damages awarded under section eighteen of this article and not the  
4 punitive damages permitted under that section. The aggregate  
5 liability of the surety to all persons damaged by a person or firm  
6 licensed under this article may not exceed the amount of the bond.

7 **§15-14-11. Requirements for employees conducting security guard**  
8 **business under a firm license.**

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

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

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

22 (2) Authorize the director to review the records held by the  
23 West Virginia State Police for any convictions that may be on  
24 record for such employee or individual.

25 (c) A holder of a security guard firm license is prohibited  
26 from authorizing any individual or employee to conduct security

1 guard business if such individual does not comply with the  
2 requirements of this section.

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

10 **§15-14-12. Renewal of license.**

11 A license granted under the provisions of this article shall  
12 be in effect for one year from the date the certificate of license  
13 is issued and may be renewed for a period of one year by the  
14 director upon application, in a form as the director may prescribe,  
15 and upon payment of the license fee and the filing of the surety  
16 bond. At the time of applying for renewal of a license, the  
17 director may require any person to provide additional information  
18 to reflect any changes in the original application or any previous  
19 renewal.

20 **§15-14-13. Complaints; investigations; due process procedure;**  
21 **grounds for disciplinary action.**

22 (a) The director may, based on credible information, and shall  
23 upon the written complaint of any person cause an investigation to  
24 be made to determine whether grounds exist for disciplinary action  
25 under this article or the legislative rules.

1 (b) Upon initiation or receipt of the complaint, the director  
2 shall provide a copy of the complaint to the licensee.

3 (c) After reviewing any information obtained through an  
4 investigation, the director shall determine if probable cause  
5 exists that the licensee has committed a violation of any of the  
6 acts contained in subdivisions (1) through (7), subsection (g) or  
7 rules promulgated pursuant to this article.

8 (d) Upon a finding that probable cause exists that the  
9 licensee has violated of any of the acts contained in subdivisions  
10 (1) through (7), subsection (g) or rules promulgated pursuant to  
11 this article, the director may enter into a consent decree or hold  
12 a hearing for the suspension or revocation of the license or the  
13 imposition of sanctions against the licensee.

14 (e) The director may issue subpoenas and subpoenas duces tecum  
15 to obtain testimony and documents to aid in the investigation of  
16 allegations against any person regulated by the article.

17 (f) The director may sign a consent decree or other legal  
18 document.

19 (g) The director may, after notice and opportunity for  
20 hearing, deny or refuse to renew, suspend or revoke the license of,  
21 impose probationary conditions upon or take disciplinary action  
22 against, any licensee for any of the following reasons once a  
23 violation has been proven by a preponderance of the evidence:

24 (1) Obtaining a license by fraud, misrepresentation or  
25 concealment of material facts;

26 (2) Being convicted of a felony or other crime involving moral

1 turpitude;

2 (3) Being guilty of unprofessional conduct which placed the  
3 public at risk, as defined by legislative rule;

4 (4) Intentional violation of a lawful order or legislative  
5 rule;

6 (5) Having had a license or other authorization revoked or  
7 suspended, other disciplinary action taken, or an application for  
8 licensure or other authorization revoked or suspended by the proper  
9 authorities of another jurisdiction;

10 (6) Aiding or abetting unlicensed practice; or

11 (7) Engaging in an act while acting in a professional capacity  
12 which has endangered or is likely to endanger the health, welfare  
13 or safety of the public.

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

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

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

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

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



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

3 (6) Authorize or permit another person to violate any  
4 provision of this article or any rule of the director adopted for  
5 this article.

6 (h) For the purposes of subsection (g) of this section,  
7 disciplinary action may include:

8 (1) Reprimand;

9 (2) Probation;

10 (3) Administrative fine, not to exceed \$1,000 per day per  
11 violation;

12 (4) Mandatory attendance at continuing education seminars or  
13 other training;

14 (5) Practicing under supervision or other restriction;

15 (6) Requiring the licensee to report to the director for  
16 periodic interviews for a specified period of time; or

17 (7) Other corrective action considered by the director to be  
18 necessary to protect the public, including advising other parties  
19 whose legitimate interests may be at risk.

20 **§15-14-14. Procedures for hearing; right of appeal.**

21 (a) Hearings are governed by the provisions of article five,  
22 chapter twenty-nine-A.

23 (b) An administrative law judge shall conduct the hearing.

24 (c) At the conclusion of a hearing, the administrative law  
25 judge shall prepare a proposed written order containing findings of  
26 fact and conclusions of law. The proposed order may contain

1 proposed disciplinary actions if the director so directs. The  
2 director may accept, reject or modify the decision of the  
3 administrative law judge.

4 (d) The director has the authority to administer oaths,  
5 examine any person under oath and issue subpoenas and subpoenas  
6 duces tecum.

7 (e) If, after a hearing, the director determines the licensee,  
8 has violated of any of the acts contained in subdivisions (1)  
9 through (7), subsection (g), section thirteen of this article or  
10 the rules, a formal written decision shall be prepared which  
11 contains findings of fact, conclusions of law and a specific  
12 description of the disciplinary actions imposed.

13 **§15-14-15. Judicial review.**

14 Any licensee affected by a decision of the director entered  
15 after a hearing may obtain judicial review of the decision in  
16 accordance with section four, article five, chapter twenty-nine-a  
17 of this code, and may appeal any ruling resulting from judicial  
18 review in accordance with article six, chapter twenty-nine-a of  
19 this code.

20 **§15-14-16. Criminal proceedings; penalties.**

21 (a) When, as a result of an investigation under this article  
22 or otherwise, the director has reason to believe that a licensee,  
23 has committed a criminal offense under this article, the director  
24 shall bring its information to the attention of an appropriate law-  
25 enforcement official.

1 (b) A person violating a provision of this article is guilty  
2 of a misdemeanor and, upon conviction thereof, shall be fined not  
3 less than \$1,000 nor more than \$10,000 or confined in jail not more  
4 than six months, or both fined and confined.

5 **§15-14-17. Single act evidence of practice.**

6 In any action brought or in any proceeding initiated under  
7 this article, evidence of the commission of a single act prohibited  
8 by this article is sufficient to justify a penalty, injunction,  
9 restraining order or conviction without evidence of a general  
10 course of conduct.

11 **§15-14-18. Action for damages**

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

15 **§15-14-19. Transition from the Secretary of State to the Director**  
16 **of the Division of Justice and Community Services; and Report**  
17 **to the Joint Committee on Government Organization.**

18 (a) In order to implement an orderly and efficient transition  
19 from the Secretary of State to the Division Justice and Community  
20 Services, the Secretary of State and Director may establish interim  
21 policies and procedures for the transfer of authority to  
22 administer and enforce this article.

23 (b) On the effective date of this article, all records  
24 necessary to effectuate the purposes of this article shall be  
25 transferred from the Secretary of State to the Director: Provided,

1 That the transfer of records provided for in this subsection shall  
2 take place no later than July 15, 2011.

3 (c) The director, with the assistance of other interested  
4 parties shall study the private security industry. On or before  
5 the October 1, 2011, the Director shall submit a report to the  
6 Joint Committee on Government Organization on the activities of the  
7 Division in the administration of this article The report shall  
8 include:

9 (1) Types of licensure;

10 (2) Qualifications and training of applicants, including the  
11 use of community colleges to provide the training”;

12 (3) Licensure fees;

13 (4) Powers and responsibilities of licensees; and

14 (5) Any other statutory change.