

Senate Bill No. 609

(By Senators Palumbo, Snyder, Williams and Barnes)

[Originating in the Committee on the Judiciary;
reported February 24, 2011.]

A BILL to amend and reenact §30-18-1 of the Code of West Virginia, 1931, as amended, relating to clarifying that employees of property management firms employed by residential property owners' associations are not required to be licensed as security guards.

Be it enacted by the Legislature of West Virginia:

That §30-18-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.

§30-18-1. Definitions.

1 For the purposes of this article, except where the context
2 clearly requires otherwise, the following terms shall have the
3 meanings ascribed to them:

4 (1) "Applicant" means a person who files a completed
5 application as required by sections three and six of this
6 article to be licensed to conduct a private investigation
7 business or a security guard business. When a person other
8 than a natural person is applying for a license, the applicant
9 shall be the person whose qualifications are presented to
10 meet the experience or education requirements of sections
11 two or five of this article.

12 (2) "Private investigation business" means the business of
13 doing an investigation or investigations, for hire, reward or
14 any other type of remuneration, to obtain information about:

15 (A) A crime which is alleged to have occurred or is threat-
16 ened to occur;

17 (B) The habits, activities, conduct, movements, location,
18 associations, transactions, reputation or character of any
19 person;

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

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

22 (E) The causes or origins of any fire, accident or injury to
23 any property, real or personal, or to identify or locate any
24 person or persons responsible for any such fire, accident or
25 injury;

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

28 (G) Any matters which constitute evidence or which may
29 lead to the discovery of evidence to be used before any
30 judicial or quasijudicial tribunal, including, but not limited
31 to, civil or criminal courts, administrative agencies, investi-
32 gating committees, or boards of award or arbitration;

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

34 (I) The affiliation, connection or relationship of any person
35 with any corporation or other business entity, union, organi-
36 zation, society or association, or with any official, member or
37 representative thereof;

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

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

43 (3) "Firm license" means the license held by a person
44 whom the Secretary of State has authorized to operate a
45 private detective investigative firm or security guard firm
46 after such person has filed and completed an application
47 pursuant to the application requirements contained in

48 sections three or six and has satisfied the eligibility require-
49 ments contained in sections two or five.

50 (4) "Person" means a natural person, a group of persons or
51 individuals acting individually or as a group, a corporation,
52 company, partnership, association, society, firm or any
53 business organization or entity organized or existing under
54 the laws of this or any other state or country.

55 (5) (A) "Private detective" or "private investigator" means
56 a person who is licensed pursuant to the provisions of this
57 article to conduct a private investigation business, as defined
58 in subdivision (2) of this section, and who conducts such
59 business individually and independently from any private
60 detective or investigative firm;

61 (B) "Private detective" or "private investigator" does not
62 include:

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

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

68 (iii) An officer or employee of the United States, or any
69 law-enforcement officer of this state or any political subdivi-

70 sion thereof, while such officer or employee is engaged in the
71 performance of his or her official duties or while working for
72 a private employer in his or her off-duty hours;

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

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

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

80 (6) "Private detective or investigative firm" means any
81 private detective agency or business or any investigative
82 agency or business that is operated by a licensed private
83 detective or investigator and which employs one or more
84 other persons who actually conduct the private investigation
85 business as defined in subdivision (2) of this section.

86 (7) (A) "Security guard" means a person who is licensed
87 pursuant to the provisions of this article to conduct a
88 security guard business, as defined in subdivision (8) of this
89 section, and who conducts such business individually and
90 independently from a security guard firm.

91 (B) “Security guard” does not include a person who is
92 employed exclusively and regularly by only one employer in
93 connection with the affairs of such employer only including
94 but not limited to management companies exclusively
95 supplying services to a residential property owners’ associa-
96 tion, or a person who is otherwise hereinafter excluded from
97 the requirements of this article.

98 (8) (A) “Security guard business” means the business of
99 furnishing, for hire, reward or other remuneration, watch-
100 men, guards, bodyguards, private patrolmen or other
101 persons, to:

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

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

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

110 (B) “Security guard business” does not include any
111 activities or duties for which it is necessary to be trained and

112 certified as a law-enforcement officer in accordance with the
113 provisions of article twenty-nine, chapter thirty of this code.

114 (9) "Security guard firm" means any security guard agency
115 or business that is operated by a licensed security guard and
116 which employs one or more other persons who actually
117 conduct a security guard business as defined in subdivision
118 (8) of this section.