PROFESSIONAL INVESTIGATOR LICENSURE ACT

Act 285 of 1965

AN ACT to license and regulate professional investigators; to provide for certain powers and duties for certain state agencies and local officials; to provide for the imposition for certain fees; to protect the general public against unauthorized, unlicensed and unethical operations by professional investigators; to provide for immunity for certain persons under certain circumstances; to provide for penalties and remedies; and to repeal acts and parts of acts.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

The People of the State of Michigan enact:

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338.821 Short title.

Sec. 1.

This act shall be known and may be cited as the "professional investigator licensure act".

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.822 Definitions.

Sec. 2.

As used in this act:

(a) "Certified public accountant" means a person licensed as a certified public accountant under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

(b) "Computer forensics" means the collection, investigation, analysis, and scientific examination of data held on, or retrieved from, computers, computer networks, computer storage media, electronic devices, electronic storage media, or electronic networks, or any combination thereof.

(c) "Department" means the Michigan department of labor and economic growth.

(d) "Insurance adjuster" means a person other than a professional investigator who, for a consideration, engages in the activities described in subdivision (e) in the course of adjusting or otherwise participating in the disposal of claims under or in connection with a policy of insurance. Insurance adjuster includes any of the following:

(i) A person who is employed on a salary basis by an insurance company.

(ii) A person, firm, partnership, company, limited liability company, or corporation who acts for insurance companies solely in the capacity of an independent claim adjuster while performing within that capacity.

(iii) A person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

(e) "Investigation business" means a business that, for a fee, reward, or other consideration, engages in business or accepts employment to furnish, or subcontracts or agrees to make, or

makes an investigation for the purpose of obtaining information with reference to any of the following:

(i) Crimes or wrongs done or threatened against the United States or a state or territory of the United States, or any other person or legal entity.

(ii) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person.

(iii) The location, disposition, or recovery of lost or stolen property.

(iv) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or property.

(v) Securing evidence to be used before a court, board, officer, or investigating committee.

(vi) The prevention, detection, and removal of surreptitiously installed devices designed for eavesdropping or observation, or both.

(vii) The electronic tracking of the location of an individual or motor vehicle for purposes of detection or investigation.

(viii) Computer forensics to be used as evidence before a court, board, officer, or investigating committee.

(f) "Licensee" means a person licensed under this act.

(g) "Professional engineer" means a person licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, as a professional engineer.

(h) "Professional investigator" means a person, other than an insurance adjuster who is on salary and employed by an insurance company, who for a fee, reward, or other consideration engages in the investigation business.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 1967, Act 164, Eff. Nov. 2, 1967 ;-- Am. 1978, Act 311, Imd. Eff. July 10, 1978 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

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338.823 License required; investigation of prohibited activities; civil or criminal action; violation; penalty.

Sec. 3.

(1) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of professional investigator for hire, fee, or reward, and shall not advertise his or her business to be that of professional investigator or of a professional investigator agency without first obtaining a license from the department. A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of furnishing or supplying, for hire and reward, information as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company, limited liability company, or corporation and shall not own, conduct, or maintain a bureau or agency for the purposes described in this subsection except as to the financial rating of persons, firms, partnerships, companies, limited liability companies, or corporations without having first obtained a license as a professional investigator from the department.

(2) The department, the attorney general, the Michigan state police, or a local law enforcement agency, on its own initiative or at the request of any other person or legal entity, may investigate allegations of a person or legal entity engaging in activities regulated under this act without being appropriately licensed or exempt from licensure under this act. The entity conducting the investigation shall report its findings to the attorney general and county

prosecuting attorney having jurisdiction in the location within which the alleged violator is engaged in business. The attorney general or county prosecuting attorney may bring an appropriate civil or criminal action in a court of competent jurisdiction to enjoin any person or legal entity that has engaged or is about to engage in any activity regulated by this act without being appropriately licensed or exempt from licensure under this act. Such an injunction may be issued without proof of actual damage sustained by any person or legal entity. Issuance of an injunction shall not prevent criminal prosecution of a violator. In addition to issuing the injunction, the court may impose a civil violation fine not to exceed $25,000.00. A person or other legal entity who reports to the department, a local law enforcement agency, a county prosecuting attorney, or the attorney general regarding an allegation of unlicensed activity is immune from tort liability for making the report.

(3) A person violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or by a penal fine of not more than $5,000.00, or both.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 1974, Act 114, Eff. July 1, 1974 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

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338.824 Exemptions from act.

Sec. 4.

This act does not apply to any of the following:

(a) A person employed exclusively and regularly by an employer in connection with the affairs of the employer only, if there exists a bona fide employer-employee relationship for which the employee is reimbursed on a salary basis.

(b) An officer or employee of the United States, this state, or a political subdivision of this state while that officer or employee is engaged in the performance of his or her official duties except that such officer or employee does not include a professional investigator hired or employed under contract by the United States, this state, or a political subdivision of this state.

(c) The business of obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit.

(e) An attorney admitted to practice in this state in performing his or her duties as an attorney at law.

(f) A collection agency or finance company licensed to do business under the laws of this state or any employee of a collection agency or finance company while acting within the scope of his or her employment when making an investigation incidental to the business of the agency, including an investigation of the location of the debtor or his or her assets and property in which the client has an interest or upon which the client has a lien.

(g) An insurance adjuster who is employed on a salary basis by an insurance company or a person, firm, partnership, company, limited liability company, or corporation that acts for an insurance company solely in the capacity of claim adjuster.

(h) A person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services, including, but not limited to, surveillance activities.

(i) A professional engineer acting within the scope of his or her licensed professional practice who does not perform investigative services, including, but not limited to,

surveillance activities or other activities outside of the scope of his or her licensed professional practice.

(j) A certified public accountant currently licensed, registered, or certified by a regulatory agency of this or any other state or a public accounting firm currently licensed, registered, or certified by a regulatory agency of this or any other state, including the employees of the certified public accountant or public accounting firm acting within the scope of the individual's or the public accounting firm's professional practice.

(k) A bail agent authorized under section 167b of the Michigan penal code, 1931 PA 328, MCL 750.167b, while performing his or her duties as a bail agent.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008 ;-- Am. 2010, Act 359, Imd. Eff. Dec. 22, 2010

338.825 License; issuance, duration.

Sec. 5.

(1) The department, upon application and after making a determination that the applicant is qualified, shall issue the applicant a license to conduct business as a professional investigator for a period of 3 years from date of issuance.

(2) Upon the issuance of a license under this act to conduct business as a professional investigator, the applicant is not required to obtain any other license from any municipality or political subdivision of this state.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.826 License; qualifications; reciprocal agreements.

Sec. 6.

(1) The department shall issue a license to conduct business as a professional investigator if satisfied that the applicant is a person, or if a firm, partnership, company, limited liability company, or corporation, the sole or principal license holder is a person who meets all of the following qualifications:

(a) Is a citizen of the United States.

(b) Is not less than 25 years of age.

(c) Has a high school education or its equivalent.

(d) Has not been convicted of a felony, or a misdemeanor involving any of the following:

(i) Dishonesty or fraud.

(ii) Unauthorized divulging or selling of information or evidence.

(iii) Impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.

(iv) Illegally using, carrying, or possessing a dangerous weapon.

(v) Two or more alcohol related offenses.

(vi) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(vii) An assault.

(e) Has not been dishonorably discharged from a branch of the United States military service.

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(f) For a period of not less than 3 years has been or is any of the following on a full-time basis:

(i) Lawfully engaged in the professional investigation business as a licensee, registrant, or investigative employee in another state.

(ii) Lawfully engaged in the investigation business as an investigative employee of the holder of a license to conduct a professional investigation agency.

(iii) An investigator, detective, special agent, intelligence specialist, parole agent, probation officer, or certified police officer employed by any government executive, military, judicial, or legislative agency, or other public authority engaged in investigative or intelligence activities. This subdivision does not include individuals employed by educational or charitable institutions who are solely engaged in academic, consulting, educational, instructional, or research activities. In the case of the experience requirement under this subparagraph for an applicant demonstrating experience as a probation officer or parole agent, the department shall consider any application filed on or after January 1, 2005 for eligibility regarding that experience.

(iv) A graduate of an accredited institution of higher education with a baccalaureate or postgraduate degree in the field of police administration, security management, investigation, law, criminal justice, or computer forensics or other computer forensic industry certificated study that is acceptable to the department.

(v) Lawfully engaged in the investigation business as a full-time proprietary or in-house investigator employed by a business or attorney, or as an investigative reporter employed by a recognized media outlet, acceptable to the department. This subdivision does not include individuals employed by educational or charitable institutions who are solely engaged in academic, consulting, educational, instructional, or research activities.

(g) Has posted with the department a bond or insurance policy provided for in this act.

(2) In the case of a person, firm, partnership, company, limited liability company, or corporation now doing or seeking to do business in this state, the manager shall comply with the qualifications of this section.

(3) Beginning July 1, 2010, a law enforcement officer, as that term is defined in section 2 of the commission of law enforcement standards act, 1965 PA 203, MCL 28.602, shall not be issued a new or renewal license and shall not be employed and working in an investigative capacity by, or authorized to operate in a capacity as, a professional investigator unless the law enforcement officer obtains and produces, in a manner acceptable to the department, any 1 of the following:

(a) Written permission to act as a professional investigator from the current chief of police, county sheriff, or other official having executive authority and responsibility over the law enforcement matters in that jurisdiction if the law enforcement officer does not work under the authority of a chief of police or county sheriff.

(b) A copy of the law enforcement officer's jurisdiction's published policies and procedures allowing off-duty employment, which policies and procedures include the prohibition of the off-duty use of investigative tools or equipment, or both, provided exclusively for law enforcement and indicate that the off-duty employment as a professional investigator is not considered in conflict with employment as a law enforcement officer.

(c) A copy of the collective bargaining agreement of the law enforcement officer's jurisdiction.

(4) This act does not prevent a licensee from acting as a professional investigator outside of this state to the extent allowed by that other state under the laws of that state.

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(5) The department may enter into reciprocal agreements with other states that have professional investigator qualification laws to allow a professional investigator license or registration to be used by that licensee or registrant within the jurisdiction of either this state or another state. The reciprocal agreement shall be limited to only allow professional investigators to continue investigations that originate in the investigator's home state and that require investigation in another state. The department may enter into a reciprocal agreement if the other state meets all of the following conditions:

(a) Issues a professional investigator identification card with an expiration date printed on the card.

(b) Is available to verify the license or registration status for law enforcement purposes.

(c) Has disqualification, suspension, and revocation standards for licenses and registrations.

(d) Requires the applicant for a license or registration as a professional investigator to submit to a criminal history records check pursuant to applicable state and federal law.

(6) Each reciprocal agreement shall, at a minimum, include the following provisions:

(a) A requirement that the professional investigator possess a professional investigator license or registration in good standing from his or her home state.

(b) A requirement that the professional investigator shall be time-limited to a maximum of 30 days per case while conducting an investigation in this state, or a lesser amount of time if required to comply with the reciprocity statutes or regulations of the other state.

(c) A requirement that the professional investigator from the other state not solicit any business in this state while conducting investigations in this state.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 1967, Act 164, Eff. Nov. 2, 1967 ;-- Am. 1978, Act 311, Imd. Eff. July 10, 1978 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

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338.827 Application for license; notarized statement as to qualifications; investigation of applicant.

Sec. 7.

(1) The department shall prepare a standard uniform application. The applicant shall obtain notarized reference statements from at least 5 reputable citizens who swear that they have known the applicant and his or her qualifications for a period of at least 5 years and believe that the applicant is honest, of good character, and competent. The individual providing the reference shall not be related or connected to the person so certifying by blood or marriage.

(2) Upon receipt of the application, application processing fee, and license fee as described in section 9, the department shall investigate as to the applicant's qualifications for licensure.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.828 Application for license by corporation; contents; copy of incorporation certificate.

Sec. 8.

If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and such other description as will

indicate the location of the bureau, agency, subagency, office or branch office for which the license is desired, and shall be accompanied by a duly certified copy of a certificate of incorporation.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.829 License; conditions of issuance; fee; duration; suspension or revocation; bonds; branch office; filing completed application; issuance of license within certain time period; report; "completed application" defined.

Sec. 9.

(1) The department, when satisfied of the competency and integrity of the applicant, or if the applicant is a firm, partnership, company, limited liability company, or corporation, of its individual members or officers, shall issue to the applicant a license upon the applicant's paying to the department an application processing fee of $150.00 and an initial license fee of $600.00. The applicant shall execute, deliver, and file with the department a bond in the sum of $10,000.00, conditioned for the faithful and honest conduct of the business by the applicant, which bond shall be approved by the department. The license is valid for 3 years but is subject to suspension or revocation at all times by the department for cause shown. The bonds shall be taken in the name of the people of the state, and any person injured by the willful, malicious, and wrongful act of the principal may bring an action on the bond or insurance in his or her own name to recover damages suffered by reason of such willful, malicious, and wrongful act. In lieu of a bond, the applicant may furnish a policy of insurance issued by an insurer authorized to do business in this state naming the licensee and the state as co-insured in the amount of $10,000.00 for property damages, $100,000.00 for injury or death of 1 person, and $200,000.00 for injuries to or deaths of more than 1 person arising out of the operation of the licensed activity. The license shall be in a form to be prescribed by the department and shall specify the full name of the applicant, the location of the principal office or place of business and the location of the bureau, agency, subagency, office or branch office for which the license is issued, the expiration date, and the name of the person filing the statement required by this act upon which the license is issued.

(2) A licensee desiring to open a branch office or subagency shall receive a license for that branch or subagency upon payment to the department of an additional fee of $125.00 for each additional license. The additional license shall be posted in a conspicuous place in the branch office or subagency and expires on the date of the initial license.

(3) If the license is suspended or revoked for any cause, the department shall not refund the license or application processing fee or any part of the license or application processing fee.

(4) Beginning the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

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(5) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(6) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (4).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees and registrants under subsection (5).

(7) As used in this section and section 26, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 260, Imd. Eff. July 23, 2004

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338.830 License; suspension or revocation; grounds; additional sanctions; surrendering license and identification card; noncompliance as misdemeanor.

Sec. 10.

(1) The department may suspend or revoke a license issued under this act if the department determines that the licensee or licensee's manager, if an individual, or if the licensee is a person other than an individual, that an officer, director, partner, or its manager, has done any of the following:

(a) Made false statements or given false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated this act or any rule promulgated under this act.

(c) Been convicted of a felony or misdemeanor involving dishonesty or fraud, unauthorized divulging or selling of information or evidence.

(d) Been convicted of impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.

(e) Been convicted of illegally using, carrying, or possessing a dangerous weapon.

(f) In the case of a law enforcement officer issued a license under the conditions contained in section 6(3), violated the policies and procedures governing off-duty employment.

(2) In addition to the suspension or revocation provisions available to the department under subsection (1), the department may do 1 or more of the following regarding a licensee or a licensee's manager, if an individual, or if the licensee is a person other than an individual, an officer, director, partner, member, or its manager, who violates this act or a rule or order promulgated or issued under this act:

(a) Place a limitation on a license.
(b) Deny a renewal of a license.
(c) Issue an order of censure.
(d) Issue an order of probation.
(e) Impose a requirement that restitution be made.

(3) Upon notification from the department of the suspension or revocation of the license, the licensee, within 24 hours, shall surrender to the department the license and his or her identification card. Failure to surrender the license in compliance with this subsection is a misdemeanor.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 1978, Act 311, Imd. Eff. July 10, 1978 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.831 License fee; refund; conditions.

Sec. 11.

The department shall not refund a license fee unless a showing is made of mistake, inadvertence, error in the collection of the fee, or noncompliance with the time periods described in section 9(4).

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 260, Imd. Eff. July 23, 2004

338.832 License; posting.

Sec. 12.

Upon receipt of a license from the department, the licensee shall post it in a conspicuous place in his or her office.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

338.833 Reporting name or location change in agency; new license.

Sec. 13.

Any change in the name or location of the agency or of a branch office or subagency shall be reported to the department at least 30 days before the change becomes effective. Upon receipt of the notice of change of name or location, the department shall prepare and forward a license showing the change and the licensee shall return the old license within 3 business days after the change.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

338.834 Identification card; issuance; form and contents; maintenance, custody, and control; duplicates.

Sec. 14.

(1) Upon issuing a license, the department shall also issue an identification card to the principal license holder or, if the agency is a partnership, to each partner or, if the license holder is a corporation or limited liability company, to each resident officer, manager, or member.

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(2) The identification card issued under subsection (1) shall be in such form and contain such information as may be prescribed by the department and is recallable by the department for the same reasons as the license.

(3) The department shall only issue 1 identification card for each person entitled to receive it. The licensee is responsible for the maintenance, custody, and control of the identification card and shall not lease, loan, sell, or otherwise permit unauthorized persons or employees to use it. This subsection does not prevent each agency from issuing its own identification cards, if approved as to form and content by the department, to its respective employees. The individual identification card shall not bear the seal of the state or the designation of professional investigator, but the identification card may designate the employee as an investigator or operator and may state that the person is employed by a licensee of the department and the state of Michigan.

(4) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original license or identification card.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

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338.835 Nonassignability of license.

Sec. 15.

A license issued under the provisions of this act is not assignable, and is personal to such licensee.

History: 1965, Act 285, Imd. Eff. July 22, 1965

338.836 Display of unauthorized badge, shield, identification card, or license; violation; penalties.

Sec. 16.

(1) A person shall not possess or display a badge or shield that purports to indicate that the holder is a private detective, private investigator, or professional investigator.

(2) A licensee may request authorization to provide employee identification cards only upon the express authorization of the department as to format and content.

(3) A person shall not display any badge, shield, identification card, or license that might mislead the public into thinking that the holder is a licensed professional investigator.

(4) A person who violates this section is guilty of a misdemeanor and any unauthorized badge, shield, identification card, or license shall be confiscated by any law enforcement officer of the state. Each day the violation continues shall constitute a separate offense.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.837 Licensees; employment of assistants; records; false statements; fingerprints.

Sec. 17.

(1) A licensee may employ as many persons as considered necessary to assist in his or her work of professional investigator and in the conduct of the business. At all times during the

employment, the licensee shall have direct involvement in the day-to-day activities and is accountable for the good conduct in the business of each person so employed.

(2) A licensee shall keep adequate and complete records of all persons he or she employs, which records shall be made available to the department upon request and to police authorities if the police authorities offer legitimate proof for the request in connection with a specific need.

(3) If a licensee falsely states or represents that a person is or has been in his or her employ, the false statement or representation shall be sufficient cause for the suspension or revocation of the license. Any person falsely stating or representing that he or she is or has been a professional investigator or employed by a professional investigator agency is guilty of a misdemeanor.

(4) A licensee shall not knowingly employ any person who does not meet the requirements of this act.

(5) The licensee shall cause fingerprints to be taken of all prospective employees, which fingerprints shall be submitted to the department and the federal bureau of investigation for processing and approval.

(6) The fingerprints required to be taken under subsection (5) may be taken by a law enforcement agency or any other person determined by the department to be qualified to take fingerprints. The licensee shall submit a fingerprint processing fee to the department in accordance with section 3 of 1935 PA 120, MCL 28.273, as well as any costs imposed by the federal bureau of investigation.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 1967, Act 164, Eff. Nov. 2, 1967 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

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338.838 Hiring of person convicted of certain felonies or misdemeanors prohibited; refusal to surrender license or identification card.

Sec. 18.

(1) A licensee shall not knowingly employ any person who has been convicted of a felony, or convicted of a misdemeanor within the preceding 8 years involving any of the following:

(a) Dishonesty or fraud.

(b) Unauthorized divulging or selling of information or evidence.

(c) Impersonation of a law enforcement officer or employee of the United States, this state, or a political subdivision of this state.

(d) Illegally using, carrying, or possessing a dangerous weapon.

(e) Two or more alcohol related offenses.

(f) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(g) An assault.

(2) Any employee or operator who, upon demand, fails to surrender to the licensee his or her identification card and any other property issued to him or her for use in connection with his or her employer's business is guilty of a misdemeanor.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

338.839 Carrying deadly weapon; license required.

Sec. 19.

Any person licensed as a professional investigator, or in the employ of a professional investigator agency, is not authorized to carry a deadly weapon unless he is so licensed in accordance with the present laws of this state.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.840 Divulging of information; willful sale of or furnishing false information; penalty; privileged communications; notice and hearing.

Sec. 20.

(1) Any person who is or has been an employee of a licensee shall not divulge to anyone other than his or her employer or former employer, or as the employer shall direct, except as he or she may be required by law, any information acquired by him or her during his or her employment in respect to any of the work to which he or she shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who willfully makes a false report to his or her employer in respect to any work is guilty of a misdemeanor.

(2) Any principal, manager, or employee of a licensee who willfully furnishes false information to clients, or who willfully sells, divulges, or otherwise discloses to other than clients, except as may be required by law, any information acquired during employment by the client is guilty of a misdemeanor and is subject to summary suspension of license and revocation of license upon satisfactory proof of the offense to the department. Any communications, oral or written, furnished by a professional or client to a licensee, or any information secured in connection with an assignment for a client, is considered privileged with the same authority and dignity as are other privileged communications recognized by the courts of this state.

(3) Suspension, revocation, denial, or other action against a licensee or applicant for a license as described in section 10 shall be accompanied by notice and an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.841 Violation of act; report of conviction by prosecuting attorney.

Sec. 21.

The prosecuting attorney of the county in which any conviction for a violation of any provision of this act shall, within 10 days thereafter, make and file with the department a report showing the date of the conviction, the name of the person convicted, and the nature of the charge.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

338.842 Advertising; contents; discontinuing misleading advertising; notice.

Sec. 22.

(1) An advertisement by a licensee soliciting or advertising for business shall contain his or her name and address as they appear in the records of the department.

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(2) A licensee shall, on notice from the department, discontinue any advertising or the use of any advertisement, seal, or card, that the department determines to be misleading to the public. Failure to comply with such an order is cause for suspension or revocation of the license.

(3) Unless licensed under this act, a person shall not advertise his or her business to be that of a professional investigator regardless of the name or title actually used.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.843 Trade names; approval by department.

Sec. 23.

A licensee shall not use any designation or trade name which has not been first approved by the department and shall not use any designation or trade name that implies any association with any municipal, county, township, or state government or the federal government, or any agency thereof.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

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338.844 Record of business transaction and reports; retention.

Sec. 24.

(1) Each person, partnership, firm, company, limited liability company, or corporation licensed and operating under this act shall make a complete written record of the business transactions and reports made in connection with the operation of the agency.

(2) A professional investigator agency that receives or generates a written or electronic report shall keep the report on file in the office of the professional investigator for at least 2 years unless the file is returned to the client or agent.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.845 Investigation of applicants; complaints; subpoenas; fees; failure to obey; penalty; testimony under oath.

Sec. 25.

(1) For the purpose of investigating the character, competency, and integrity of the applicants, or for the purpose of investigating complaints made against the licensee, the director of the department may issue subpoenas and compel the attendance of witnesses. All subpoenas shall be issued under the hand of the director of the department and upon service the witness shall be tendered the fees to which he or she would be entitled to receive if subpoenaed in a court of law.

(2) A person duly subpoenaed who fails to obey the subpoena or, without cause, refuses to be examined or to answer any legal or pertinent questions as to the character, qualifications, or alleged misdeeds of the applicant or licensee is guilty of a misdemeanor.

(3) The testimony of such witnesses shall be under oath, which a designee of the director of the department may administer. Willful false swearing in any such proceeding is considered perjury.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

338.846 License; renewal; fee; bond.

Sec. 26.

(1) A license granted under this act may be renewed upon application and the payment of a renewal fee of $300.00, unless reduced under section 9(5), and filing of a renewal surety bond or liability insurance policy in the amount equivalent to that specified in section 9.

(2) A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in such form as prescribed by the department. Upon receipt of a completed application, payment of the renewal fee subject to section 9(5), and proof acceptable to the department of bond or insurance, the department shall renew a license. The department may defer the renewal if there are uninvestigated complaints then outstanding against the licensee or if there is a criminal complaint then pending against the licensee.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 260, Imd. Eff. July 23, 2004

338.847 Death of licensee; carrying on business; notice to department; sale of business.

Sec. 27.

(1) Upon the death of a licensee, the business of the decedent may be carried on for a period of 90 days by any of the following:

(a) In the case of an individual licensee, the surviving spouse, or if there is none, the personal representative of the estate of the decedent.

(b) In the case of a partner, the surviving partners.

(c) In the case of an officer of a firm, company, association, limited liability company, or corporation, the officers.

(2) Within 10 days following the death of a licensee, the department shall be notified by a person described in subsection (1) in writing. The notification shall state the name of the person legally authorized to carry on the business of the deceased.

(3) Upon the authorization of the department, the business may be carried on for a further period of time when necessary to complete any investigation or assist in any litigation pending at the death of the decedent.

(4) This section does not authorize the solicitation or acceptance of any business after the death of the decedent except as otherwise provided by this act.

(5) This section shall not be construed to restrict the sale of a professional investigator business if the vendee qualifies for a license under the provisions of this act.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.848 Employment of agents; rules.

Sec. 28.

(1) The department may employ such agents as are necessary to carry out and to enforce this act.

(2) The department may promulgate rules to enforce and administer this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002

338.849 Application of act as to license applications and renewals.

Sec. 29.

The requirements of this act as to license applications shall apply to all professional investigators, except those who already have been granted a license under prior laws of this state. The requirements as to renewal of license certificates shall apply to all professional investigators licensed under this act or any prior law of this state.

History: 1965, Act 285, Imd. Eff. July 22, 1965 ;-- Am. 2008, Act 146, Imd. Eff. May 28, 2008

338.850 Repeals.

Sec. 30.

Act No. 383 of the Public Acts of 1927, as amended, being sections 338.801 to 338.813 of the Compiled Laws of 1948, is repealed.

History: 1965, Act 285, Imd. Eff. July 22, 1965

338.851 Violation; penalty.

Sec. 31.

A licensee, manager, or employee of a licensee who violates this act or a rule promulgated under this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

History: Add. 1974, Act 114, Eff. July 1, 1974 ;-- Am. 2002, Act 474, Eff. Oct. 1, 2002
Compiler's Notes: Former MCL 338.851, deriving from Act 229 of 1939 and pertaining to a state board of embalmers and funeral directors, was repealed by Act 268 of 1949.

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