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2013-2014 Regular Sessions

I N S E N A T E

March 4, 2013

Introduced by Sens. ZELDIN, MAZIARZ, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to licenses for private investigators, bail enforcement agents and watch, guard or patrol agencies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 70 of the general business law, as amended by chap-
2 ter 562 of the laws of 2000 and subdivision 3 as further amended by
3 section 104 of part A of chapter 62 of the laws of 2011, is amended to
4 read as follows:
5 S 70. [Licenses] PRIVATE INVESTIGATOR LICENSE. 1. The department of
6 state shall have the power to issue [separate] licenses to private
7 investigators[, bail enforcement agents and to watch, guard or patrol
8 agencies]. Nothing in this article shall prevent a private investigator
9 licensed hereunder from performing the services of a watch, guard or
10 patrol agency or bail enforcement agent as defined herein; however, a
11 watch, guard or patrol agency or bail enforcement agent may not perform
12 the services of a private investigator as defined herein.
13 2. No person, firm, company, partnership, limited liability company or
14 corporation shall engage in the business of private investigator[, busi-
15 ness of bail enforcement agents or the business of watch, guard or
16 patrol agency,] or advertise his, their or its business to be that of
17 private investigator[, bail enforcement agent or watch, guard or patrol
18 agency,] notwithstanding the name or title used in describing such agen-
19 cy or notwithstanding the fact that other functions and services may
20 also be performed for fee, hire or reward, without having first obtained
21 from the department of state a license so to do, as hereinafter
22 provided, for each bureau, agency, sub-agency, office and branch office
23 to be owned, conducted, managed or maintained by such person, firm,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 company, partnership, limited liability company or corporation for the
2 conduct of such business.

3 3. No person, firm, company, partnership, limited liability company or
4 corporation shall engage in the business of furnishing or supplying for
5 fee, hire or any consideration or reward information as to the personal
6 character or activities of any person, firm, company, or corporation,
7 society or association, or any person or group of persons, or as to the
8 character or kind of the business and occupation of any person, firm,
9 company or corporation, or own or conduct or maintain a bureau or agency
10 for the above mentioned purposes, except exclusively as to the financial
11 rating, standing, and credit responsibility of persons, firms, companies
12 or corporations, or as to the personal habits and financial responsibil-
13 ity of applicants for insurance, indemnity bonds or commercial credit or
14 of claimants under insurance policies, provided the business so exempted
15 does not embrace other activities as described in section seventy-one of
16 this article, or except where such information is furnished or supplied
17 by persons licensed under the provisions of section twenty-four-a or
18 subdivision three-b of section fifty of the workers' compensation law or
19 representing employers or groups of employers insured under the workers'
20 compensation law in the state insurance fund, without having first
21 obtained from the department of state, as hereafter provided, a license
22 so to do as private investigator for each such bureau or agency and for
23 each and every sub-agency, office and branch office to be owned,
24 conducted, managed or maintained by such persons, firm, limited liabil-
25 ity company, partnership or corporation for the conduct of such busi-
26 ness. Nothing contained in this section shall be deemed to include the
27 business of adjusters for insurance companies, nor public adjusters
28 licensed by the superintendent of financial services under the insurance
29 law of this state.

30 4. Any person, firm, company, partnership or corporation who violates
31 any provision of this section shall be guilty of a class [B misdemeanor]
32 E FELONY.

33 S 2. The general business law is amended by adding a new section 70-a
34 to read as follows:

35 S 70-A. BAIL ENFORCEMENT AGENTS AND WATCH, GUARD OR PATROL AGENCIES.
36 1. THE DEPARTMENT OF STATE SHALL HAVE THE POWER TO ISSUE SEPARATE
37 LICENCES TO BAIL ENFORCEMENT AGENTS AND TO WATCH, GUARD OR PATROL AGEN-
38 CIES. NOTHING IN THIS ARTICLE SHALL PREVENT A PRIVATE INVESTIGATOR
39 LICENSED HEREUNDER FROM PERFORMING THE SERVICES OF A WATCH, GUARD OR
40 PATROL AGENCY OR BAIL ENFORCEMENT AGENT AS DEFINED IN THIS ARTICLE;
41 HOWEVER, A WATCH, GUARD OR PATROL AGENCY OR BAIL ENFORCEMENT AGENT MAY
42 NOT PERFORM THE SERVICES OF A PRIVATE INVESTIGATOR AS DEFINED IN THIS
43 ARTICLE.

44 2. NO PERSON, FIRM, COMPANY, PARTNERSHIP, LIMITED LIABILITY COMPANY OR
45 CORPORATION SHALL ENGAGE IN THE BUSINESS OF BAIL ENFORCEMENT AGENTS OR
46 THE BUSINESS OF WATCH, GUARD OR PATROL AGENCY, OR ADVERTISE HIS, THEIR
47 OR ITS BUSINESS TO BE THAT OF BAIL ENFORCEMENT AGENT OR WATCH, GUARD OR
48 PATROL AGENCY, NOTWITHSTANDING THE NAME OR TITLE USED IN DESCRIBING SUCH
49 AGENCY OR NOTWITHSTANDING THE FACT THAT OTHER FUNCTIONS AND SERVICES MAY
50 ALSO BE PERFORMED FOR FEE, HIRE OR REWARD, WITHOUT HAVING FIRST OBTAINED
51 FROM THE DEPARTMENT OF STATE A LICENSE SO TO DO, AS HEREINAFTER
52 PROVIDED, FOR EACH BUREAU, AGENCY, SUB-AGENCY, OFFICE AND BRANCH OFFICE
53 TO BE OWNED, CONDUCTED, MANAGED OR MAINTAINED BY SUCH PERSON, FIRM,
54 COMPANY, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION FOR THE
55 CONDUCT OF SUCH BUSINESS.

1 3. ANY PERSON, FIRM, COMPANY, PARTNERSHIP OR CORPORATION WHO VIOLATES
2 ANY PROVISION OF THIS SECTION SHALL BE GUILTY OF A CLASS B MISDEMEANOR.

3 S 3. Section 85 of the general business law, as added by chapter 349
4 of the laws of 1938, is amended to read as follows:

5 S 85. [Attorney-general to prosecute] PROSECUTION. Criminal action
6 for violation of this article shall be prosecuted by the [attorney-gen-
7 eral] ATTORNEY GENERAL, [or his] HIS OR HER deputy, OR A DISTRICT ATTOR-
8 NEY, in the name of the people of the state[, and in]. IN any such pros-
9 ecution the [attorney-general] ATTORNEY GENERAL, or his OR HER deputy,
10 shall exercise all the powers and perform all duties which the district
11 attorney would otherwise be authorized to exercise or to perform there-
12 in. The [attorney-general] ATTORNEY GENERAL OR A DISTRICT ATTORNEY
13 shall, upon a conviction for a violation of any provision of this arti-
14 cle and within ten days thereafter, make and file with the department of
15 state a detailed report showing the date of such conviction, the name of
16 the person convicted and the nature of the charge.

17 S 4. This act shall take effect one year after it shall have become a
18 law.