

## Chapter 4749: PRIVATE INVESTIGATORS; SECURITY SERVICES

### 4749.01 Private investigator - security services definitions.

As used in this chapter:

(A) “Private investigator” means any person who engages in the business of private investigation.

(B) “Business of private investigation” means, except when performed by one ~~excluded under division (H) of this section exempt by law, the conducting, the furnishing~~ for hire, in person or through a partner or employees, of any investigation persons to investigate relevant to any crime or wrong done or threatened, or to obtain information on the identity, habits, conduct, movements, whereabouts, affiliations, transactions, reputation, credibility, or character of any person, or to locate and recover lost or stolen property, or to determine the cause of or responsibility for any libel or slander, or any fire, accident, or damage to property, or to secure evidence for use in any legislative, administrative, or judicial investigation or proceeding.

(C) “Security officer” means any person who engages in the business of security services.

(D) “Business of security services” means ~~either of the following:~~

~~(1) Furnishing for hire, watchpersons, guards, private patrol officers, or other persons whose primary duties are to protect persons or property;~~

~~(2) Furnishing for hire, guard dogs, or armored motor vehicle security services, in connection with the protection of persons or property.~~

Furnishing for hire, watchpersons, security officers, guard dogs, armored motor vehicle security services, private patrol officers, or other persons whose primary duties are to protect persons or property from injury or harm or for any other purpose including, but not limited to deterring, observing, detecting or reporting incidents or activities for the purpose of preventing theft, the unlawful taking, conversion, concealment or misappropriation of goods, wares, merchandise, or any valuable instrument; or to deter, observe, detect or report incidents and activities for the purpose of preventing any unauthorized access, entry, violation of organizational rules or unlawful activity.

(E) “Class A license” means a license issued under section 4749.03 of the Revised Code that qualifies the person issued the license to engage in the business of private investigation and the business of security services.

(F) “Class B license” means a license issued under section 4749.03 of the Revised Code that qualifies the person issued the license to engage only in the business of private investigation.

(G) “Class C license” means a license issued under section 4749.03 of the Revised Code that qualifies the person issued the license to engage only in the business of security services.

(H) “Employee” means every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go, or work, or be at any time in any place of employment, provided that the employer of the employee deducts all applicable state and federal employment taxes on behalf of the employee.

(I) “Licensee” means the holder of a Class A, B, or C license issued under section 4749.03 of the Revised Code.

(J) “Private investigator,” “business of private investigation,” “security officer provider,” and “business of security services” do not include:

(1) Public officers and employees whose official duties require them to engage in investigatory activities of the United States, this state, any state or any of its political subdivisions when in the performance of their official duties;

(2) Attorneys at law or any expert hired by an attorney at law for consultation or litigation purposes; Persons and their employees holding a professional license certification or registration under Title XLVII of the Revised Code, when such persons are providing services pursuant to the authority granted to that profession by law.

(3) Certified public adjusters that hold a certificate of authority issued pursuant to Chapter 3951 of the Revised Code, while the adjuster is investigating the cause of or responsibility for a fire, accident, or other damage to property with respect to a claim or claims for loss or damage under a policy of insurance covering real or personal property.

(4) A consumer reporting agency, as defined in the “Fair Credit Reporting Act,” 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended, provided that the consumer reporting agency is in compliance with the requirements of that act and that the agency’s activities are confined to any of the following:

(a) The issuance of consumer credit reports;

(b) The conducting of limited background investigations that pertain only to a client’s prospective tenant and that are engaged in with the prior written consent of the prospective tenant;

(c) The business of pre-employment background investigation. As used in division (I)(4)(c) of this section, “business of pre-employment background investigation” means, and is limited to, furnishing for hire, in person or through a partner or employees, the conducting of limited background investigations, in-person interviews, telephone interviews, or written inquiries that pertain only to a client’s prospective employee and the employee’s employment and that are engaged in with the prior written consent of the prospective employee.

(5) Any local, state or federal law enforcement officer engaged in his or her official duties, including mutual aid as defined in chapter 2744 of the Ohio Revised Code or when performing special duty security activities authorized and approved by the law enforcement officer’s superiors, within the law enforcement officer’s jurisdiction or, outside the law enforcement

officer's jurisdiction through requested mutual aid or pursuant to advance authorization from the chief law enforcement officer of the outside jurisdiction.

(6) Attorneys at law or any expert retained by an attorney at law for consultation or litigation purposes and who qualifies as an expert under the Federal Rules of Evidence or the Ohio Rules of Evidence.

(7) Personnel placement services and persons who act as employees of such entities engaged in investigating matters related to personnel placement activities;

(8) An employee in the regular course of the employee's employment, engaged in investigating matters pertinent to the business of the employee's employer or protecting ~~property in the possession of the employee's employer~~ and/or business invitees or tenants or property in the possession of the employee's employer, provided the employer is deducting all applicable state and federal employment taxes on behalf of the employee and neither the employer nor the employee is employed by, associated with, or acting for or on behalf of any private investigator or security officer provider;

(9) Any better business bureau or similar organization or any of its employees while engaged in the maintenance of the quality of business activities relating to consumer sales and services;

(10) Persons engaged solely in the remote monitoring of audio, video and other event/alarm signals and then dispatching public safety or security personnel.

~~(9) An accountant who is registered or certified under Chapter 4701. of the Revised Code or any of the accountant's employees while engaged in activities for which the accountant is certified or registered;~~

(11) Any person who, for hire or otherwise, conducts genealogical research in this state. As used in this division (I)(10) of this section, "genealogical research" means the determination of the origins and descent of families, including the identification of individuals, their family relationships, and the biographical details of their lives. "Genealogical research" does not include furnishing for hire services for locating missing persons or natural or birth parents or children.

(12) Any person residing in this state who conducts research for the purpose of locating the last known owner of unclaimed funds, provided that the person is in compliance with Chapter 169. of the Revised Code and rules adopted thereunder. ~~The This exemption set forth in division (I)(11) of this section~~ applies only to the extent that the person is conducting research for the purpose of locating the last known owner of unclaimed funds. As used in division (H)(10) of this section, "owner" and "unclaimed funds" have the same meanings as in section 169.01 of the Revised Code.

~~(12) A professional engineer who is registered under Chapter 4733. of the Revised Code or any of his employees. As used in division (H)(11) of this section and notwithstanding division (I) of this section, "employee" has the same meaning as in section 4101.01 of the Revised Code.~~

(13) Any person residing in this state who, for hire or otherwise, conducts research for the purpose of locating persons to whom the state of Ohio owes money in the form of warrants, as defined in division (S) of section 131.01 of the Revised Code, that the state voided but subsequently reissues.

(14) An independent insurance adjuster who, as an individual, an independent contractor, an employee of an independent contractor, adjustment bureau association, corporation, insurer, partnership, local recording agent, managing general agent, or self-insurer, engages in the business of independent insurance adjustment, or any person who supervises the handling of claims except while acting as an employee of an insurer licensed in this state while handling claims pertaining to specific policies written by that insurer. As used in ~~division (I)(13) of this division section~~, “independent insurance adjustment” means conducting investigations to determine the cause of or circumstances concerning a fire, accident, bodily injury, or damage to real or personal property; determining the extent of damage of that fire, accident, injury, or property damage; securing evidence for use in a legislative, administrative, or judicial investigation or proceeding, adjusting losses; and adjusting or settling claims, including the investigation, adjustment, denial, establishment of damages, negotiation, settlement, or payment of claims in connection with insurance contractors, self-insured programs, or other similar insurance programs. “Independent adjuster” does not include either of the following:

(a) An attorney who adjusts insurance losses incidental to the practice of law and who does not advertise or represent that the attorney is an independent insurance adjuster;

(b) A licensed agent or general agent of an insurer licensed in this state who processes undisputed or uncontested losses for insurers under policies issued by that agent or general agent.

~~(14) Except for a commissioned peace officer who engages in the business of private investigation or compensates others who engage in the business of private investigation or the business of security services or both, any commissioned peace officer as defined in division (B) of~~

~~I. “Employee” means every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go, or work, or be at any time in any place of employment, provided that the employer of the employee deducts all applicable state and federal employment taxes on behalf of the employee.~~

K. “Persons” includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

L “Qualifying agent” means the individuals designated in writing under section 4749.03 of the Revised Code who meet certain minimum requirements for licensure on behalf of the person applying for a license and who are responsible for ensuring the licensees compliance with the provisions of this Chapter and its accompanying rules.

M. “Registrant” means a qualifying agent or any individual registered in accordance section 4749.06 of the Revised Code as a private investigator, security officer, or both.

N. "Security provider", "security officer provider", "private investigator provider", and "private investigator" mean any business licensed under this chapter to engage in the business of private investigation, security services, or both.

Effective Date: 03-24-2003

**4749.011 [Repealed].**

Effective Date: 09-26-1996

**4749.02 Administrative rules - personnel.**

The director of public safety shall administer this chapter, and for that purpose, may appoint employees and adopt rules that the director considers necessary. ~~The director shall implement electronic licensing and registration procedures under this chapter not later than December 31, 2006. The application procedures in effect on the effective date of this amendment shall continue until such time as electronic licensing and registration procedures are implemented.~~

Effective Date: 06-30-1997; 07-01-2004; 03-29-2005

**4749.021 Private investigation and security services commission.**

(A) There is hereby created the Ohio private investigation and security services commission, consisting of the director of public safety or the director's designee, who shall be a nonvoting member; the superintendent of the highway patrol or the superintendent's designee, who shall be a voting member; and twelve members appointed by the governor with the advice and consent of the senate, as follows:

(1) Three members shall be owners or operators of a business that maintains a class A license and shall have at least five years' experience in this state in the business of private investigation or security services.

(2) One member shall be an owner or operator of a business that maintains a class B license and shall have at least five years' experience in this state in the business of private investigation or security services.

(3) One member shall be an owner or operator of a business that maintains a class C license and shall have at least five years' experience in this state in the business of private investigation or security services.

(4) Two members shall be owners or operators of a business that maintains a class A, B, or C license and shall have at least five years' experience in this state in the business of private investigation or security services.

(5) One member shall be an incumbent chief of police.

(6) One member shall be an active law enforcement officer, not above the rank of lieutenant.

(7) One member shall be an incumbent sheriff.

(8) Two members who shall be representatives of the general public who have never had a direct employment relationship with any class A, B, or C licensee. A general public representative must not have been employed with a class A, B, or C licensee or as a commissioned peace officer for the five years prior to appointment. During the term of appointment the general public representative must not become employed by a class A, B, or C licensee or as a commissioned peace officer.

~~(B)(1) The governor shall make initial appointments to the commission. by January 1, 2005, and the commission shall hold its first meeting, at the call of the director of public safety, in January 2005. Of the initial appointments made to the commission, three shall be for a term ending December 31, 2005, three shall be for a term ending December 31, 2006, three shall be for a term ending December 31, 2007, and three shall be for a term ending December 31, 2008. Thereafter, Terms of office shall be for five years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed, but may serve not more than two complete consecutive five-year terms. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring before the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The governor, after notice and the opportunity for a hearing, may remove any appointed member for misfeasance, malfeasance, or nonfeasance.~~

(2) Ninety days before the expiration of a member's term, or in the event of a vacancy, the Ohio association of security and investigation services, and other interested parties, may submit names to the governor for consideration of appointment to the commission.

(C) The commission shall advise the director of public safety on all matters related to the regulation of private investigation and the business of security services and on all matters related to this chapter. The commission shall advise the director on the format, content, and all other aspects of all private investigation and security services licensure and registration examinations.

(D) In accordance with Chapter 119. of the Revised Code, the department may establish rules on behalf of the commission.

(E) The commission shall meet not less than four times each year. It also shall meet upon the call of the chairperson, upon the request of five members, or at the request of the director of public safety or the director's designee.

(F) At the first regular meeting of each year, which shall be called by the chairperson, the members shall elect a chairperson and a vice-chairperson by a majority vote, and also shall establish its meeting schedule for the remainder of the year. The chairperson and vice-chairperson shall serve until their successors are elected. No member may serve as chairperson more than three times during a five-year term. The chairperson shall preside over the

commission's meetings, shall set the meeting agenda, and shall serve as the commission's chief spokesperson and liaison to the department of public safety. The chairperson or vice-chairperson shall approve all vouchers of the commission. Subject to the commission's approval, the chairperson may appoint committees to assist the commission. Committee members may be members of the commission. The vice-chairperson shall exercise the duties of the chairperson when the chairperson is not available.

(G) A quorum of at least one more than half of the currently serving members is necessary for a meeting to convene or continue. ~~seven appointed members is necessary for a meeting to convene or continue.~~ All actions of the commission shall be by a majority of the voting members present. Members may not participate or vote by proxy. In accordance with Chapter 121. of the Revised Code, at least fourteen days before a regular meeting and twenty-four hours before a special meeting, the chairperson shall notify all members of the commission in writing of the agenda. Upon a timely request, any member of the commission may have an item added to the commission's agenda.

(H) Each member of the commission shall receive the member's necessary expenses incurred in the performance of official duties, including travel, hotel, and other necessary expenses. Members of any special committee, which may be appointed by the commission to assist it, who are not members of the commission also, may receive necessary expenses.

(I) The department of public safety shall provide the commission with suitable office and meeting space and necessary technical, clerical, and administrative support. The department shall serve as the official repository of the commission's records. Expenses of the commission shall be paid from the private investigator and security officer provider fund created in section 4749.07 of the Revised Code.

(J) In the absence of fraud or bad faith, the commission, a current or former commission member, or an agent, representative, or employee of the commission is not liable in damages to any person because of any act, omission, proceeding, or decision related to official duties.

#### **4749.03 License requirement.**

(A)(1) Any person, may apply for a license to engage in the business of private investigation under a class B license, or to engage in the business of security services under a class C license, or to engage in the business of private investigation and security services under a class A license, by submitting an application on a form prescribed by the director of public safety for that purpose. In addition to any other information required by the director, the application shall include the following:

- a. The name, address, date and place of birth, citizenship of each person having a legal or beneficial interest in the ownership of the business and each person that will act as a qualifying agent for the business. If any person is a corporation or limited liability company, the applicant shall list the names of each officer of the company; and the names of the managing members of the company or the managers of the company, if the management of the company is not reserved to its members; the names of each person owning or controlling five per cent or more of the capital stock of the corporation; and

the names of each person owning or controlling five per cent or more of either the voting interests or membership interests in the limited liability company. If any person is a partnership or association, the applicant shall list the names of each partner or member of the association;

- b. The address of each of the applicant's place of business in this state
- c. A brief physical description of each of the individuals specified in the application as a qualifying agent;
- d. Any other information the director may require, as set forth in rules adopted pursuant to Chapter 119 of the Revised Code.

(2)The application described in this division shall be accompanied by all of the following:

(a) One recent full-face photograph of each of the individuals specified in the application as a qualifying agent;

(b) References from at least five reputable citizens for each of the individuals specified in the application as a qualifying agent, each of whom has known the individuals for at least five years preceding the application, and none of whom are connected with the individuals by blood or marriage;

(c) Verification that depending on the class of license applied for, that each of the individuals specified in the application as a qualifying agent has for a continuous two year period, been engaged in the business of private investigation, the business of security services, or both; or has been engaged in investigatory or security services work for a law enforcement or other public agency; or has engaged in the practice of law; or has acquired equivalent experience as determined by rule of the director of public safety. Such rule shall include provisions regarding

- i. the use of military programs of training, military primary specialties, and lengths of service to meet the experience requirements of this section,
- ii. the use of a college degree in lieu of one of the two years of required experience

(d) An examination fee of twenty-five dollars for each individual specified in the application as a qualifying agent.

(e) A license fee in the amount the director determines, not to exceed six hundred and fifty dollars. All but one hundred dollars of the license fee shall be refunded, if a license is not issued.

(f) Evidence of comprehensive general liability insurance coverage, or other equivalent guarantee approved by the director in such form and in principal amounts satisfactory to the director, but not less than one hundred thousand dollars for each person and three hundred thousand dollars for each occurrence for bodily injury liability, and one hundred thousand dollars for property damage liability.

(3)If the director determines that the applicant meets the requirements of divisions (A) and (B) of this section, the director shall notify the applicant that the applicants qualifying agents qualify to take the examination required by 4749.061 of the revised code and the time and place for the examination. The director may waive the examination requirement, but not the examination fee

specified in division (d) of this section, of any person who is currently a qualifying agent for another class A, B, C licensee in this state or a person licensed as private investigator provider, security provider, or both in another state.

4(a) Each individual specified in the application as a qualifying agent shall submit one complete set of fingerprints directly to the superintendent of the bureau of criminal identification and investigation for the purpose of conducting a criminal records check. The individual shall provide the fingerprints using a method the superintendent prescribes pursuant to division (C)(2) of section 109.572 of the Revised Code and fill out the form the superintendent prescribes pursuant to division (C)(1) of section 109.572 of the Revised Code. An qualifying agent who intends to carry a firearm as defined in section 2923.11 of the Revised Code in the course of business or employment shall so notify the superintendent. This notification is in addition to any other requirement related to carrying a firearm that applies to the qualifying agent. The person requesting the criminal records check shall pay the fee the superintendent prescribes.

(b) The superintendent shall conduct the criminal records check as set forth in division (B) of section 109.572 of the Revised Code. If an applicant intends to carry a firearm in the course of business or employment, the superintendent shall make a request to the federal bureau of investigation for any information and review the information the bureau provides pursuant to division (B)(2) of section 109.572 of the Revised Code. The superintendent shall submit all results of the completed investigation to the director of public safety.

(c) If the bureau assesses the director a fee for any investigation, the director, in addition to any other fee assessed pursuant to this chapter, may assess the applicant a fee that is equal to the fee assessed by the bureau.

(5) Each person listed in division (A)(1)(a) of this section shall submit an affidavit, on a form prescribed by the director stating whether the person:

- a. Has previously applied for a class A, B, or C license or registration and the result of the application.
- b. Has ever been the holder of any such license or registration that was revoked or suspended.
- c. Has been convicted of, plead guilty, or plead no contest in a criminal action.
- d. Is currently or has ever previously held a license or registration to engage in the business of private investigation, security services, or both in another state or foreign jurisdiction, and if so the name of the state or foreign jurisdiction, and the status of the license or registration.

B. (1)The director of public safety shall deny a license application and refund all but one hundred dollars of the application fee, under this section if the director finds:

- (a) The applicant does not have a good reputation for integrity. In the determining whether the applicant has a good reputation for integrity the director may consider, but is not limited to, whether any of the persons listed on an application in accordance with division (A)(1)(a) of this section:
  - 1) Has ever been convicted of any crime of moral turpitude as that term is defined in section 4776.10 of the Revised Code;

- 2) Has been convicted of a disqualifying offense as that term is defined in 4776.10 of the Revised Code within three years of the date of submitting an application in accordance with this section.
- 3) Has been subject to discipline within five years of making application in accordance with this section for violations of Chapter 4749 of the Revised Code or its accompanying rules or a violation of any former or existing law of another state that is or was substantially equivalent to any of the violations set forth in this Chapter.
- 4) Has voluntarily surrendered a license issued in accordance with this Chapter within five years of making application or voluntarily surrendered a substantially equivalent license issued under former or existing laws of another state;
- 5) Has had a license issued in accordance with this Chapter previously revoked or suspended or has had a substantially equivalent license issued under former or existing law of another state revoked or suspended.

(b) That any person specified as a qualifying agent on the application has

- 1) been convicted of any crime of moral turpitude as that term is defined in section 4776.10 of the Revised Code
- 2) been convicted of a disqualifying offense as that term is defined in 4776.10 of the Revised Code within three years of the date of submitting an application in accordance with this section,
- 3) been adjudicated incompetent for the purpose of holding the license, as provided in section 5122.301 of the Revised Code, without having been restored to legal capacity for that purpose.
- 4) failed to pass the examination required by section 4749.061 of the Revised Code

(c) The person has failed to submit all documentation required by division (A) of this section.

(2) Subject to divisions (B)(3), (C), and (D) of this section, the director shall not adopt, maintain, renew, or enforce any rule, or otherwise preclude in any way, a person from receiving or renewing a license under this chapter due to any past criminal activity or interpretation of moral character, except as pursuant to division (B)(1)(a) and (b) of this section. If the director denies a person a license or license renewal, the reasons for such denial shall be put in writing.

(3) Except as otherwise provided in this division, if a qualifying agent for an applicant has been convicted of or plead guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to making the application, the director may use the director's discretion in granting or denying the applicant a license. Except as otherwise provided in this division, if a qualifying applicant for a license has been convicted of or pleaded guilty to a felony that is not a crime of moral turpitude or a disqualifying offense less than three years prior to making the application, the director may use the director's discretion in granting or denying the applicant a license. The provisions in this paragraph do not apply with respect to any offense unless the director, prior to September twenty-eighth, 2012, was required or authorized to deny the application based on that offense.

(C) If the director finds that the applicant meets the requirements of this section, the director shall issue the applicant a class A, B, or C license. The license shall state the licensee's name, the classification of the license, the location of the licensee's principal place of business in this state, the expiration date of the license, and the names of the qualifying agents. The director also shall issue a registration card to each qualifying agent. The registration card issued in accordance with this division shall be the same registration card issued in accordance with section 4749.06 of the Revised Code, except that the registration card shall specify that the individual is a qualifying agent.

The director may grant an applicant a conditional license that lasts for one year. After the one-year period has expired, the license is no longer considered conditional, and the applicant shall be considered fully licensed.

(D) All licenses issued on or after the effective date of this section expire on the first day of March the second year following the date issued, and on the first day of March biennially thereafter. An application for renewal and payment of a renewal fee the director determines, not to exceed five hundred and fifty dollars shall be submitted to the director prior to March 1 of the year in which the license expires.

Licenses issued prior to the effective date of this section with a business name starting with the letters A through L shall expire on March 1 in the year indicated on the license, such license may be renewed for one year if all other requirements of this section are met and with payment of a renewal fee the director determines, not to exceed two hundred and seventy-five dollars, renewals shall occur biennially thereafter by meeting the requirements of this section and payment of a fee not to exceed five hundred and fifty dollars.

Licenses issued prior to the effective date of this section with a business name starting with the letters M through Z shall expire on March 1 in the year indicated on the license, such license shall be renewed biennially if all other requirements of this section are met and with payment of a renewal fee the director determines not to exceed five hundred and fifty dollars.

Applications for renewal and the accompanying fee must be submitted to the department of public safety prior to March first in the year the license expires. Applications for license renewal and the accompanying fee submitted on or after March first but prior to April first in the year the license expires shall be accepted by the department, if accompanied by the payment of a late fee of one hundred and fifty dollars, in addition to the renewal fee prescribed in this section. If an application for renewal is not submitted or is submitted on or after April first in the year it expires, the licensee will be required to submit an application for a new license in accordance with the provisions of this section. A business who does not submit an application for renewal before April first in the year it expires is prohibited from engaging in the business of private investigation, security officer services, or both and is subject to sanctions for operating an unlicensed business.

No license shall be renewed if the licensee no longer meets the applicable requirements of this section. No license shall be renewed unless the licensee provides evidence of insurance coverage, certificate of good standing from the Ohio secretary of state, and, if applicable, a full force and effect certificate from the Ohio secretary of state. No license shall be renewed unless

the licensee provides evidence of workers' compensation risk coverage and unemployment compensation insurance coverage, other than for clerical employees and excepting sole proprietors who are exempted therefrom, as provided for in Chapters 4123. and 4141. of the Revised Code, respectively, as well as the licensee's state tax identification number. No reexamination shall be required for renewal of a current license.

In considering a renewal of a license, the director shall not consider any conviction or plea of guilty prior to the initial licensing. However, the director may consider a conviction or plea of guilty if it occurred after the individual was initially licensed, or after the most recent license renewal.

(E) The director may issue a duplicate copy of a license issued under this section for the purpose of replacement of a lost, spoiled, or destroyed license, upon payment of a fee the director determines, not exceeding twenty-five dollars.

(F)(1) A qualifying agent may qualify more than one business for licensure, provided that the qualifying agent is actively engaged in each business.

(2) Each officer or qualifying agent who qualifies a legal entity for class A, B, or C licensure shall surrender any personal license of a similar nature that the officer or qualifying agent possesses.

(2) Upon written notification to the director, completion of an application for licensure, surrender of the legal entity's current license, and payment of a twenty-five dollar fee, a legal entity's class A, B, or C license may be transferred to another legal entity.

(4) Upon written notification to the director, completion of an application similar to that for an individual seeking class A, B, or C licensure, payment of a twenty-five dollar fee, and, if the individual was the only individual that qualified a legal entity for licensure, surrender of the legal entity's license, any officer or qualifying agent who qualified a legal entity for licensure under this chapter may obtain a similar license in the individual's own name without reexamination. A request by an officer or qualifying agent for an individual license shall not affect a legal entity's license unless the individual is the only individual that qualified the legal entity for licensure or all the other individuals who qualified the legal entity for licensure submit such requests.

(G) If a business is for any reason no longer associated with an individual who qualified it for licensure under this chapter, a representative of the business shall notify the director by certified mail, return receipt requested, within ten days after the association terminates. If notification is so given, and the person was the only person that qualified the business for licensure, and the business submits the name of another person to qualify the business for the license within thirty days after the association terminates, the business may continue to operate in the business of private investigation, the business of security services, or both businesses in this state under that license for ninety days after the association terminates. If the person whose name is submitted satisfies the requirements of divisions (A)(1) and (F)(1) of this section, the director shall issue a new license to the business within ninety-days after receiving the application. The names of more than one individual may be submitted.

**4749.031 Participation in retained applicant fingerprint database and continuous record monitoring service; initial or annual fees.**

(A) The department of public safety shall be a participating public office for purposes of the retained applicant fingerprint database established under section 109.5721 of the Revised Code. The department shall elect to participate in the continuous record monitoring service for all persons licensed or registered under this chapter. When the superintendent of the bureau of criminal identification and investigation, under section 109.57 of the Revised Code, indicates that an individual in the retained applicant fingerprint database has been arrested for, convicted of, or pleaded guilty to any offense, the superintendent promptly shall notify the department either electronically or by mail that additional arrest or conviction information is available.

(B) In addition to any other fees charged by the department under this chapter, an applicant for a license under section 4749.03 of the Revised Code or registration under section 4749.06 of the Revised Code, at the time of making an initial or renewal application, shall pay any initial or annual fee charged by the superintendent pursuant to rules adopted under division (F) of section 109.5721 of the Revised Code.

Added by 129th General Assembly File No. 7, HB 114, § 101.01, eff. 6/29/2011.

**4749.04 Disciplinary actions.**

~~(A) The director of public safety may revoke, suspend, or refuse to renew, when a renewal form has been submitted, the license of any private investigator or security officer provider, or the registration of any employee of a private investigator or security officer provider, for any of the following: take any actions specified in division (C) of this section against a person who has applied for or holds a Class A, B, or C license or registration card. Actions taken against a person shall be taken in accordance with Chapter 119. of the Revised Code., except as provided in section 4749.041 of this Chapter.~~

~~(1) Violation of any of the provisions of division (B) or (C) of section 4749.13 of the Revised Code;~~

~~(2) Conviction of a disqualifying offense as defined in section 4776.10 of the Revised Code if the offense occurred within the last three years;~~

~~(3) Conviction of a crime involving moral turpitude as defined in section 4776.10 of the Revised Code;~~

~~(4) Conviction of an offense that occurred after the individual was initially licensed, or after the most recent renewal.~~

~~(5) Violation of any rule of the director governing private investigators, the business of private investigation, security officer providers, or the business of security services;~~

~~(6) Testifying falsely under oath, or suborning perjury, in any judicial proceeding;~~

~~(7) Failure to satisfy the requirements specified in division (D) of section 4749.03 of the Revised Code.~~

~~Any person whose license or registration is revoked, suspended, or not renewed when a renewal form is submitted may appeal in accordance with Chapter 119. of the Revised Code.~~

~~(B) In lieu of suspending, revoking, or refusing to renew the class A, B, or C license, or of suspending, revoking, or refusing to renew the registration of an employee of a class A, B, or C licensee, the director may impose a civil penalty of not more than one hundred dollars for each calendar day of a violation of any of the provisions of this section or of division (B) or (C) of section 4749.13 of the Revised Code or of a violation of any rule of the director governing private investigators, the business of private investigation, security officer providers, or the business of security services. (B) Sanctions may be imposed against a licensee or registrant for the following reasons:~~

- ~~1) Any violation of this chapter or the rules adopted pursuant to this chapter or allowing another to violate this chapter or the rules adopted pursuant to this chapter;~~
- ~~2) Conviction of any crime of moral turpitude as defined in 4776.10 of the Revised Code where the convicted party is a registrant, licensee, qualifying agent, or any other person listed on the license application in accordance with section 4749.03 (A)(1)(a) of Revised Code;~~
- ~~3) A conviction of a disqualifying offense within the last three years as defined in 4776.10 of the Revised Code, where the convicted party is a registrant, licensee, qualifying agent, or any other person listed on the license application in accordance with section 4749.03(A)(1)(a) of the Revised Code;~~
- ~~4) Knowingly making a false report with respect to any matter with which the licensee or registrant is employed; or knowingly falsifying any business records;~~
- ~~5) Testifying falsely under oath, or suborning perjury, in any judicial proceeding~~
- ~~6) Divulging any information acquired from or for a client to persons other than the client or the client's authorized agent without express authorization to do so or unless required by law;~~
- ~~7) Knowingly accept employment which includes obtaining information intended for illegal purposes.~~

~~(C) In its imposition of sanctions against a licensee or registrant, the director may do any of the following:~~

- ~~1) Refuse to issue, renew, restore, or reinstate a license or registration;~~
- ~~2) Reprimand or censure a licensee or registrant holder in writing;~~
- ~~3) Place limits, restrictions, or probationary conditions on a license holder's operations;~~
- ~~4) Impose a civil fine of not more than one hundred dollars for each day of violation, but no civil penalty shall exceed twenty-five thousand dollars in the aggregate;~~
- ~~5) Suspend a license or registration;~~
- ~~6) Revoke a license or registration;~~
- ~~7) Permanently revoke a license or registration~~

(D) This chapter does not require the director to act on minor paperwork violations of this chapter or the rules adopted under it, if the violations are committed by persons licensed under this chapter and the director determines that the public interest is adequately served by issuing a notice or warning to the alleged offender.

(E) Nothing in this section shall be construed as to prohibit the director from taking action against both a licensee and registrant for actions taken by a registrant.

(F) The director of public safety may impose any of the sanctions listed in division (C) of this section against a person proctoring the examination required by section 4749.061 of the Revised Code or a licensee for the following reasons:

- 1) Providing examination answers to the examinee
- 2) Allowing another person to sit in place of the registrant applicant for the examination
- 3) Undermining the integrity of the prescribed examination through the proctor's act or failure to act

(G) The director shall adopt a rule in accordance with this Chapter to provide guidelines for proposed disciplinary sanctions on licensees for violations of this Chapter.

#### **4749.041 Summary Suspensions**

(A) If the director of public safety determines that there is clear and convincing evidence that a licensee or a registrant presents a danger of immediate and serious harm to the public, the director may suspend the person's license or registration without a prior hearing.

If the director suspends a license or a registration, or both, the director shall issue a written order of suspension and cause it to be delivered in accordance with 119.07 of the Revised Code. Such order shall inform the person subject to the suspension for the reason for suspension and of the person's right to request an adjudication hearing within fifteen days of the date of mailing the notice. If the person subject to the suspension requests an adjudication hearing, such hearing shall be held in compliance with the provisions of 119.06 through 119.12 of the Revised Code. The agency shall immediately set the date, time, and place for the hearing and forthwith notify the party thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the party has requested a hearing, unless otherwise agreed to by both the agency and the party.

The summary suspension shall remain in effect, unless reversed by the director, until a final adjudication order issued by the director pursuant to this section and Chapter 119 of the Revised Code becomes effective. The order shall not be subject to suspension by any court while an appeal filed under section 119.12 of the Revised Code is pending.

The director shall issue a final adjudication order not later than sixty days after completion of the adjudication. If the director does not issue a final order within a sixty-day period, the summary suspension shall be void, but any final adjudication order issued subsequent to the sixty-day period shall not be affected.

**4749.05 Notice of change of address. - report of presence to local law enforcement.**

~~(A) Each class A, B, or C licensee shall report the location of branch offices to the department of public safety and to the sheriff of the county and the police chief of any municipal corporation in which the office is located, and shall post a branch office license conspicuously in that office. Application for a branch office license shall be made on a form prescribed by the director of public safety, and a license shall be issued upon receipt of the form and payment of a fee fixed by the director, not exceeding one hundred dollars. If a licensee moves an office, the licensee shall notify, in writing, the department of public safety and any affected sheriff and chief of police within forty-eight hours of the change. This division does not apply to a licensed private investigator who is engaging in the business of private investigation as a registered employee registrant of a licensed private investigator.~~

~~(B) Pursuant to Chapter 119 of the Revised Code, the director of public safety shall adopt rules regarding when a class A, B, or C licensee, or any of such a licensee's employees, is required to report the licensee's or employee's presence and length of stay to the sheriff and police chief of any county or municipal corporation in which the licensee or employee operates. The rules shall include reporting requirements for licenses or employees conducting fraud investigations or physical surveillance.~~

**4749.06 Registration of Security officers and Private Investigators employees.**

~~(A) Each class A, B, or C licensee shall register the licensee's investigator or security officer employees, with the department of public safety, which shall maintain a record of each licensee and registered employee and make it available, upon request, to any law enforcement agency. The class A, B, or C licensee shall file an application to register a new employee no sooner than three days nor later than seven calendar days after the date on which the employee is hired. Any person, who is eighteen years of age or older on the date of making application, may apply to the director of public safety for a class B private investigator registration, class C security officer registration, or a Class A private investigator and security officer registration. A registration application shall be made on a form prescribed by the director and shall include:~~

- ~~1) The applicant's name, address, date and place of birth, citizenship, and one recent photograph of the applicant;~~
- ~~2) A brief physical description of the applicant;~~
- ~~3) Documentation that the applicant has successfully passed the private investigator and security officer examination in accordance with the provisions of section 4749.061 of the Revised Code;~~
- ~~4) The registration fee the director determines, not to exceed eighty dollars for a two year registration;~~
- ~~5) Any other information the director may require, as set forth in rules adopted pursuant to Chapter 119 of the Revised Code.~~

~~(B)(1) Each employee's registration application shall be accompanied by one recent photograph of the employee, the employee's physical description, and the registration fee the director determines, not to exceed forty dollars.~~

~~(2) In addition to the application required in (A) of this section, The employee the applicant shall submit one complete set of fingerprints directly to the superintendent of the bureau of criminal identification and investigation for the purpose of conducting a criminal records check. The employee shall provide the fingerprints using a method the superintendent prescribes pursuant to division (C)(2) of section 109.572 of the Revised Code and fill-out complete the form the superintendent prescribes pursuant to division (C)(1) of section 109.572 of the Revised Code. An employee who intends to carry a firearm as defined in section 2923.11 of the Revised Code in the course of his or her business or employment shall so notify the superintendent. This notification is in addition to any other requirement related to carrying a firearm that applies to the employee meeting the requirements set forth in section 4749.10 of the Revised Code for carrying a firearm. The individual or corporation requesting the criminal records check shall pay the fee the superintendent prescribes.~~

The superintendent shall conduct the criminal records check as set forth in division (B) of section 109.572 of the Revised Code. If an employee intends to carry a firearm in the course of business or employment, pursuant to division (B)(2) of section 109.572 of the Revised Code the superintendent shall make a request of the federal bureau of investigation for any information and review the information the bureau provides. The superintendent shall submit all results of the completed investigation to the director of public safety.

~~(C) If, after investigation, the bureau~~ The director shall issue a private investigator, security officer, or private investigator and security officer registration card if the director finds that the employee applicant:

1. has not been convicted of a disqualifying offense as defined in section 4776.10 of the Revised Code within the last three years,
2. has not been convicted of any crime of moral turpitude as that term is defined in section 4776.10 of the Revised Code,
3. has a good reputation of integrity. The director shall adopt a rule in accordance with Chapter 119 of the Revised Code setting forth the factors the director may consider when determining whether an applicant has a good reputation for integrity. Such rule shall include whether the applicant:
  - a. Has been subject to discipline within five years of making application for violations of Chapter 4749 of the Revised Code or its accompanying rules or a violation of any former or existing law of another state that is or was substantially equivalent to any of the violations set forth in this Chapter.
  - b. Has voluntarily surrendered a license or registration issued in accordance with this Chapter 4749 of the Revised Code within five years of making application or voluntarily surrendered a substantially equivalent license or registration issued under former or existing laws of another state;
  - c. Has had a license or registration issued in accordance with this Chapter previous revoked or suspended or has had a substantially equivalent license or registration issued under former or existing law of another state revoked or suspended.

4. the applicant has submitted a completed application in accordance with (A) of this section.

The director shall issue to the employee applicant an identification a registration card bearing the license number and signature of the licensee, which in the case of a corporation shall be the signature of its president or its qualifying agent, and containing the employee's name, address, age, physical description, and right thumb print or the registrant's name, signature, and a recent photograph and any other identifying mark as the director prescribes by rule, a recent photograph of the employee, and the employee's signature. The director may issue a duplicate of a lost, spoliated spoiled, or destroyed identification registration card issued under this section, upon payment of a fee fixed by the director, not exceeding five dollars. A registration card issued by the director in accordance with this section shall expire two years from the date of issuance and shall be renewed in accordance with division of this section. The registration card authorizes the registrant to provide private investigator services, security services, or both anywhere in this state, only if the registrant is employed by a private investigator, security services provider, or both that is licensed in accordance with section 4749.03 of the Revised Code. The registration card issued by the department must be carried by the registrant at all times while on duty.

Any registrant holding a valid registration card may change the registrant's registration class by submitting a change of classification request on a form prescribed by the director of public safety and payment of a five dollar fee. Upon receiving a change of classification request and the accompanying fee the director shall issue a new registration card.

(E)(1) Except as provided in division (D)(2) and (EG) of this section, no class A, B, or C licensee shall permit a registrant, and no registrant shall an employee and no employee shall ; other than an individual who qualified a corporation for licensure, to engage in the business of private investigation, the business of security services, or both businesses until the employee person receives an identification a registration card from the department.

(D)(2) Any person employed by a class A, B, or C licensee, who has submitted an application for registration to the department in accordance with the requirements set forth in division (A) of this section, and whose application is pending approval by the director, may, at the direction and authorization of the employing licensee, engage in the business of private investigation, the business of security services, or both for a period of time not to exceed ninety days from the date the application for registration was submitted to the department. During the period in which the person's application for registration is pending approval, the person shall have the receipt of application issued by the department in his or her possession at all times while engaged in the provision of services for his or her employing licensee.

No person whose application for a firearm bearer authorization card, as set forth in Revised Code section 4749.10, is pending approval by the director may carry a firearm while engaged in the business of private investigation, the business of security services, or both, whether or not the person has his or her receipt of application issued by the department.

(D)(3) While engaged in the duties of a registrant, upon the demand of any law enforcement officer who identifies him or herself, an employee of the department of public safety, or the client of the licensee, the registrant, or a person whose application for registration is pending approval by the director, shall display his or her registration card or receipt of application to that officer or client.

~~(DE) If a No class A, B, or C licensee, or a registered employee registrant of a class A, B, or C licensee, intends to shall carry a firearm, as defined in section 2923.11 of the Revised Code, in the course of engaging in the business or employment, the licensee or registered employee shall satisfactorily complete a firearms basic training program that includes twenty hours of handgun training and five hours of training in the use of other firearms, if any other firearm is to be used, or equivalency training, if authorized, or shall be a former peace officer who previously had successfully completed a firearms training course, shall receive a certificate of satisfactory completion of that program or written evidence of approval of the equivalency training, shall file an application for registration, shall receive a firearm-bearer notation on the licensee's or registered employee's identification card, and shall annually requalify on a firearms range, all as described in division (A) of private investigation, the business of security services, or both business until the registrant has obtained a firearm-bearer authorization card in accordance with section 4749.10 of the Revised Code. A private investigator, security officer provider, or employee is authorized to carry a firearm only in accordance with that division.~~

~~(EF) The registration requirements set forth in this section does not apply to commissioned, peace officers, as defined in division (B) of section 2935.01 of the Revised Code, working for, either as an employee or independent contractor, for a class A, B, or C licensee. For purposes of this chapter, a commissioned peace officer is an employee exempt from registration.~~

(FG)

Registration cards issued prior to the effective date of this section shall expire on the date listed on the current registration card. Upon renewal, the director shall issue registrants with a last name starting with the letters A through L a registration card valid for one year, if all other requirements of this section are met and with payment of a renewal fee the director determines, not to exceed thirty dollars. Renewals shall occur biennially thereafter by meeting the requirements of this section and payment of a fee not to exceed eighty dollars.

Upon renewal, the director shall issue registrants with a last name starting with the letters M through Z a registration card valid for two years if all other requirements of this section are met and with payment of a renewal fee the director determines, not to exceed eighty dollars. Renewals shall occur biennially thereafter by meeting the requirements of this section and payment of a fee not to exceed eighty dollars.

Renewals shall be made by submitting an application for renewal on a form prescribed by the director, on or before the registrant's expiration date. The application for renewal shall be accompanied by a renewal fee determined by the director, but not to exceed eighty dollars. Renewal applications submitted within thirty days after an applicant's registration expires shall be accompanied by the payment of a late fee of twenty dollars, in addition to the renewal application and fee prescribed in this section. If a renewal application is not submitted or is submitted more than thirty days after the registration expires, the registrant will be required to

submit an application for a new registration in accordance with the provisions of this section and is prohibited from providing private investigation, security officer services, or both and is subject to sanctions for providing unregistered or unlicensed private investigator or security services or both.

The director shall not renew the registration of a person who no longer meets the requirements of this section. A registrant shall report any felony conviction of a disqualifying offense or offense of moral turpitude in writing to the employer and the director of public safety as a condition of continued registration.

(H) Each class A, B, or C licensee shall report the licensee's investigator or security officer employees, including those exempted from the registration requirements by division (F) of this section, with the department of public safety. The department shall maintain a record of each licensee and employee and make it available upon request to any law enforcement agency or to the public. The class A, B, or C licensee shall report a new employee no later than seven calendar days after the date on which the employee is hired. Each class A, B, or C licensee shall notify the department no later than seven calendar days after the employee's employment is terminated for any reason. Licensees shall only allow a registrant to work within in the registrant's class. Nothing in this section shall be construed as limiting registrants from being employed by more than one licensed private investigator, security provider, or both at the same time.

Effective Date: 03-24-2003; 07-01-2004; 07-01-2005

#### **4749.061**

Beginning on the effective date of this section, all persons submitting an application for a new private investigator registration, security officer registration, or both, shall be required to submit documentation showing that the applicant has within the one year period immediately prior to making application, successfully passed a written private investigator examination, security officer examination, or both. The director of public safety shall adopt rules in accordance with Chapter 119 of the Revised Code governing the examination and any training curriculum required prior to the examination, such rules shall include:

1. For the examination:

- a. Authorization for a qualifying agent of a licensee licensed pursuant to this Chapter, or designee of a qualifying agent made in writing to the department to proctor the examination;
- b. A requirement that applicants who fail the examination on the first attempt attend the eight hour training course prescribed in this division;
- c. The option for the examination to be administered electronically;
- d. The option to create either one private investigator and security officer examination or separate examinations for private investigators or security officers or both.
- e. Content of the examination consistent with this division;
- f. Cost of taking the examination, such cost shall not exceed fifty dollars

2. For the training:

- a. All registrants who are registered on the effective date of this section, are exempt from the training and examination.
- b. All applicants for a private investigator or security officer registration or both on or after the effective date of this section, shall be required to sit for the private investigator, security officer, private investigator and security officer examination, but have the option to take the eight hour training prior to examination;
- c. The curriculum shall, at a minimum, contain content pertaining to:
  - 1) The role of security officers and private investigators
  - 2) The laws and rules governing the business of private investigation and security services in Ohio
  - 3) The legal powers and limitation on private investigators and security officers, including civil liability
  - 4) Emergency procedures
  - 5) Communications, human and public relations
  - 6) Access control
  - 7) Ethics and professional conduct

**4749.07 Private investigator and security officer provider fund.**

(A) After refund of any license fees as required by section 4749.03 of the Revised Code, the department of public safety shall pay all fees received pursuant to this chapter to the treasurer of state, to be credited to the private investigator and security officer provider fund, which is hereby created.

(B) Moneys received in payment of fines levied pursuant to section 4749.99 of the Revised Code shall be distributed as follows:

- (1) One-third to the general fund of the municipal corporation or township in which the prosecution occurs;
- (2) One-third to the general fund of the county in which the prosecution occurs;
- (3) One-third to the private investigator and security officer provider fund.

Effective Date: 09-26-1996; 07-01-2004

**4749.08 Distinguished from law enforcement officer.**

(A) No class A, B, or C licensee, or ~~registered employee registrant of a class A, B, or C licensee~~ shall be considered, because of licensure or registration under this chapter, a law enforcement officer or peace officer for any purpose. ~~Nothing in this chapter shall be construed as granting the right to carry a concealed weapon.~~

(B) The rules of the department of public safety adopted for the administration of this chapter shall include provisions to assure that any uniform, badge, or identification card shall be so

designed as to avoid confusion of a ~~private investigator, security officer provider~~ class A, B, or C licensee or ~~registered employee~~ registrant with any law enforcement officer or peace officer in this state.

(C) No licensee may publish or caused to be published any advertisement, letterhead, circular, electronic site, statement, phrase, or use the terms law enforcement, police, sheriff, deputy, peace officer, trooper, constable, or patrol in conjunction with "Ohio" or "State," or any other phrase or statement of any sort which suggests that the licensee is an official law enforcement or governmental investigative agency or that the registrant is an official law enforcement officer or peace officer.

This provision shall not apply to the licensee if the licensee has been commissioned as a peace officer pursuant to R.C. § 109.71, commissioned as a special police officer pursuant to R.C. § 4973.17, commissioned as a private policeman pursuant to R.C. § 737.05, or as a commissioned or appointed police officer pursuant to any other statute in the Revised Code, and the licensee is acting pursuant to his or her authority as a commissioned officer.

(D) No vehicle used by the licensee or registrant shall be marked with the words police, sheriff, law enforcement, deputy, trooper, constable, peace officer or patrol in conjunction with "Ohio" or "State."

Effective Date: 11-27-1985; 07-01-2004

#### **4749.09 Effect of municipal regulation - fees.**

~~Any class A, B, or C licensee, or registered employee of a class A, B, or C licensee, who operates in a municipal corporation that provides by ordinance for the licensing, registering, or regulation of private investigators, security officer providers, or their employees shall conform to those ordinances insofar as they do not conflict with this chapter. No license or registration fees shall be charged by the state or any of its subdivisions for conducting the business of private investigation, the business of security services, or both businesses other than as provided in this chapter.~~

The state, through the department of public safety, has exclusive authority to regulate and license, and register private investigator providers, security providers, or both, and registrants. It is the intent of the general assembly that this statute supersedes and preempts all rules, regulation, resolutions, codes, and ordinances of all counties, municipal corporations, townships and agencies of counties, municipal corporations, and townships that pertain to matters that are expressly set forth or regulated under this chapter.

The department of public safety has exclusive power to adopt rules of uniform application throughout the state governing the licensing, registering or regulation for private investigator providers, security providers, or both, and registrants.

The rules that the department of public safety adopts are the exclusive rules governing the licensing, registering or regulation of private investigator providers, security providers, or both, and registrants. No counties, municipal corporations, townships or agencies of counties, municipal corporations, or townships of the state may establish any other standards governing licensing, registering or regulation of private investigator providers, security providers or both, and registrants.

#### **4749.10 Carrying firearm.**

~~(CA) No registrant shall carry a firearm in the course of his or her duties as a private investigator, security officer, or both unless the registrant is authorized to do so by the director of public safety in accordance with this section. Nothing in this section should be construed as authorizing a registrant to carry a concealed firearm under any circumstance, unless the registrant complies with sections 2923.124 to 2923.1213 of the Revised Code or 18 U.S.C. 926C.~~

~~prohibits a private investigator or a security officer provider registrant from carrying a concealed handgun if the private investigator or security officer provider registrant complies with sections 2923.124 to 2923.1213 of the Revised Code.~~

~~(AB) No class A, B, or C licensee and no registered employee registrant of a class A, B, or C licensee shall In order to carry a firearm, as defined in section 2923.11 of the Revised Code, in the course of engaging in the business of private investigation, the business of security services, or both businesses, a registrant shall comply with the provisions set forth this in this section. all of the following apply:~~

~~(1) The licensee or employee registrant shall have either:~~

- ~~a. Successfully completed a private security firearm basic training program approved by the Ohio Peace Officer Training Commission, which course includes at least forty hours of training in topics including legal aspects of firearms use, handgun marksmanship, handgun handling and tactics, shotgun marksmanship, and shotgun handling and tactics, and has received a certificate of satisfactory completion and qualified with each firearm type to be carried in the program; or~~
- ~~b. Documentation that the applicant is an active or research member of the armed forces of the United States, was honorable discharged within the last three years from military service in the active or reserve armed forces of the United States, is a qualified law enforcement officer as defined in 18 U.S.C. 926B, or is a qualified retired law enforcement officer as defined in 18 U.S.C. 926C and that, through participation in the military service or through employment described above, the applicant acquired experience with handling handguns and shotguns, and the experience so acquired was equivalent to training that the applicant could have acquired in the program described in division (A)(1)(a) of this section.~~

~~(2) The registrant submits an application to the director of public safety, in a form prescribed by the director, in which the registrant requests authorization as a registrant who may carry a firearm of the type which registrant has received the applicable training. The application shall be accompanied by a copy of the certificate or other evidence of completion of the training described in division (A)(1) of this section.~~

(3) The registrant receives a notation on the registrant's identification card that the registrant is a firearm-bearer and carries the identification card whenever the registrant carries a firearm in the course of engaging in the business of private investigation, the business of security services, or both businesses.

(C) The basic firearms training program described in division (A)(1) of this section is valid until the end of the following calendar year in which it is completed. In order to carry a firearm pursuant to this section, a registrant shall re-qualify annually pursuant to section 109.801 of the Revised Code and in accordance with rules adopted by the attorney general pursuant to section 109.743 of the Revised Code. Each firearms requalification is valid until December thirty first of the year following the requalification. A registrant who has not re-qualified with the prior three prior calendar years, shall complete the initial training described in division (A)(1) of this section before carrying a firearm pursuant to this section. The Director of Public Safety shall receive the registrant's evidence of requalification signed by the instructor on a form prescribed by the Director. Upon receipt of that evidence and the payment of the prescribed fee, the Director shall issue the registrant a renewed firearm bearer card.

(D) Private security firearms instructors and firearms requalification instructors with active certification by the Ohio Peace Officer Training Commission in the appropriate weapon type may re-qualify registrants pursuant to this division. Registrants desiring to carry firearms other than handguns or shotguns in the course of engaging in the business of private investigation, the business of security services, or both businesses, shall comply with division (A) and then subsequently shall complete a training course conducted by an instructor with active certification from the Commission for the firearm type used and re-qualify annually with the other firearm type.

(C) The director of public safety may immediately revoke firearm bearer privileges without a prior hearing upon receiving notice that a registrant is prohibited from carrying a firearm under 18 U.S.C. 922, section 2923.13 of the Revised Code, or a violation of any other state or federal law that disqualifies a person from carrying a firearm. Upon revoking firearm bearer privileges, the director of public safety shall provide the registrant with notice of opportunity of hearing in accordance with the provisions of section 4749.041 of the Revised Code.

Effective Date: 04-08-2004; 07-01-2004; 07-01-2005

#### **4749.11 Investigating applicants.**

(A) ~~The director of public safety may investigate any of the persons listed on a applicant for a class A, B, or C license application and any person applying for a class A, B, or C registration any principal officer or qualifying agent of a corporation legal entity who is specified in an application for licensure as satisfying the requirements of divisions (A)(1) and (F)(1) of section 4749.03 of the Revised Code, and any employee of a class A, B, or C licensee who seeks to be registered under section 4749.06 of the Revised Code to determine whether the individual person satisfies the applicable requirements for licensure or registration.~~

(B) The director may investigate, on the director's own initiative, the actions or proposed actions of a class A, B, or C licensee, person having a legal or beneficial interest in the ownership of the business, qualifying agent, and if the person is a corporation or limited liability company, each officer; managing members, or managers of the company, if the management of the company is not reserved to its members; persons owning or controlling five per cent or more of the capital stock of the corporation; and each person owning or controlling five per cent or more of either the voting interests or membership interests in the limited liability company. If any person is a partnership or association, each partner or member of the association, each registered-employee registrant of a class A, B, or C licensee to determine whether the person is, has been, or will be in violation of any of the provisions of this Chapter or rules promulgated thereunder ~~of section 4749.13 of the Revised Code.~~ The director ~~shall~~ may investigate any of these persons if a ~~verified~~ written complaint is filed indicating that a person has violated, or is or will be violating any of the provisions of this Chapter. ~~section 4749.13 of the Revised Code; the complaint is supported by evidence submitted with it; and the director determines that a prima-facie case exists that a violation of that section is being, has been, or will be committed by the person.~~

(C) The director may investigate, on the director's own initiative, the actions or proposed actions of a person who is not licensed or registered under this chapter and who appears to be acting as a class A, B, or C licensee, or ~~employee a registrant of a class A, B, or C licensee.~~ The director shall ~~may~~ investigate such a person if a ~~verified~~ complaint is filed indicating that a person was, is, or will be acting as a class A, B, or C licensee or ~~registrant employee of a class A, B, or C licensee~~ but is not licensed or registered as such under this chapter. ~~the complaint is supported by evidence that is submitted with it; and the director determines that a prima-facie case exists that the person was, is, or will be acting in the alleged manner.~~

(D) In connection with investigations under divisions (B) and (C) of this section, the director may file an action with the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides, is engaging in actions, or proposing to engage in actions, to obtain an injunction, restraining order, or other appropriate relief.

(E) The director may compel by subpoena witnesses to appear and testify in relation to investigations under this chapter and may require by subpoena duces tecum the production of any book, paper, or document pertaining to an investigation. If a person does not comply with a subpoena or subpoena duces tecum, the director may apply to the court of common pleas of Franklin County for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, to be held in contempt of court.

(F) If, in an investigation under division (C) of this section, the director determines that a person is not a class A, B, or C licensee, or a ~~registered-employee registrant of a class A, B, or C licensee,~~ and that the person was, is, or will be acting in the alleged manner, the director may issue an order to the person to show cause why the person should not be subject to licensing or registration under this chapter. The director shall hold a hearing on the order, and if following the hearing the director determines that the person has engaged, or is or will be engaging, in activities requiring licensure or registration under this chapter, the director may issue a cease and desist order that shall describe the person and the activities that are the subject of it. The cease

and desist order is enforceable in and may be appealed to a court of common pleas pursuant to Chapter 119. of the Revised Code.

(G) In any proceeding or action brought under this chapter, the burden of proving an exemption from the licensure requirements of this chapter is on the person claiming the benefit of the exemption to a preponderance of the evidence.

Effective Date: 10-12-1994; 07-01-2004

#### **4749.12 Nonresident licenses.**

~~(A) A person who is a resident of another state; is licensed as a private investigator, security officer provider, or as a private investigator and a security officer provider in another state; and wishes to engage in the business of private investigation, the business of security services, or both businesses in this state, shall be licensed pursuant to section 4749.03 of the Revised Code, but the director of public safety may waive the examination requirement of that section and issue a license to a nonresident, under the circumstances described in division (B) of this section.~~

~~(B) If a nonresident private investigator, security officer provider, or private investigator and security officer provider seeking licensure under this chapter submits with the application and accompanying matter specified in section 4749.03 of the Revised Code proof of licensure in another state, and if the requirements of divisions (A)(1)(a), (b), and (d) and, if applicable, (F)(1) of section 4749.03 of the Revised Code are satisfied and the nonresident meets all current requirements of the laws of the other state regulating the business of private investigation, the business of security services, or both businesses, the director may waive the examination requirement and fee of that section. This waiver authority may be exercised only if the director determines that the other state has a law similar to this division and extends to residents of this state a similar waiver of examination privilege.~~

(C) A person who is a resident of another state and is validly licensed and in good standing in that state as a private investigator, security provider, or both, may conduct temporary assignments in the state of Ohio for up to thirty days annually if the business or contract originated outside the state of Ohio. Any person conducting a temporary assignment in this state may not solicit business in the state of Ohio.

Effective Date: 11-27-1985; 07-01-2004

#### **4749.13 Prohibited acts. Unlicensed Activity**

~~(A) No person shall engage in the business of private investigation, the business of security services, or both businesses in this state unless the person is licensed pursuant to this chapter or a registered under this chapter and working for a licensee. Each day of continuing violation constitutes a separate offense. Nothing in this chapter shall be construed to require a registrant any employee of a class A, B, or C licensee to obtain a class A, B, or C license, provided that registrant is engaging in the business of private investigation, the business of security services, or both as an employee of a Class A, B or C licensee. ~~an employee shall be registered by a licensee when required by section 4749.06 of the Revised Code.~~ Nothing in this chapter shall be~~

~~construed to require a partner to be a class A, B, or C licensee except as provided in division (A)(3) of section 4749.03 of the Revised Code. Nothing in this chapter shall be construed to require a director, officer, or qualifying agent of a corporation legal entity to individually be a class A, B, or C licensee if the corporation legal entity is licensed pursuant to this chapter.~~

~~(B) No class A, B, or C licensee, or registered employee of a class A, B, or C licensee shall:~~

~~(1) Knowingly violate any provision of this chapter or any rule of the director of public safety adopted for the administration of this chapter;~~

~~(2) Knowingly make a false report with respect to any matter with which the licensee or registered employee is employed;~~

~~(3) Divulge any information acquired from or for a client to persons other than the client or the client's authorized agent without express authorization to do so or unless required by law;~~

~~(4) Knowingly accept employment which includes obtaining information intended for illegal purposes.~~

~~(C) No person shall knowingly authorize or permit another person to violate any provision of this chapter or any rule of the director adopted for the administration of this chapter.~~

(DB) No person who is not licensed as a class A, B, or C licensee shall advertise that the person is or otherwise hold it, himself or herself out as a class A, B, or C licensee. This division does not prohibit registered employees registrants from indicating in the course of authorized employment for a class A, B, or C licensee that they are authorized to engage in the business of private investigatory investigation, security services activities, or both activities.

Effective Date: 11-27-1985; 07-01-2004

**4749.14 Effect of child support default on license.**

On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of public safety shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license or registration issued pursuant to this chapter. Effective Date: 03-22-2001; 07-01-2004

**4749.15 Independent Contractors**

Except as provided in section 4749.06 (F) of the Revised Code, any person providing private investigator, security guard services, or both and holding themselves out as an independent contractor shall either:

1. Hold a Class A, Class B, or Class C license in accordance with section 4749.03 of the Revised Code,

2. Hold a Class A, Class B, or Class C registration in accordance with section 4749.06 of the Revised Code and be providing services on behalf the holder of a Class A, Class B, or Class C license, or
3. Be exempt under section 4749.01 (J) of the Revised Code from the provisions of this Chapter.

**4749.99 Penalty.**

(A) Except as otherwise provided in this division, whoever violates division (A) of section or (B) 4749.13 of the Revised Code is guilty of a misdemeanor of the first degree. Whoever violates division (A) of section 4749.13 of the Revised Code and previously has been convicted of one or more violations of division (A) of that section is guilty of a felony of the fifth degree. If the offender previously has been convicted of two or more violations of division (A) of that section, the offender shall be fined ten thousand dollars and also may be imprisoned not more than one year.

~~(B) Whoever violates division (B), (C), or (D) of section 4749.13 of the Revised Code shall be fined not less than one hundred or more than one thousand dollars, imprisoned not more than one year, or both.~~