

ACT 77

A Bill for an Act Amending Chapter 165A of the Revised Laws of Hawaii 1955, as Amended, Relating to Private Detectives, Investigators, and Watchmen.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 165A of the Revised Laws of Hawaii 1955, as amended, is hereby deleted and the following substituted therefor:

**“CHAPTER 165A
PRIVATE INVESTIGATORS**

Section 165A-1. Definitions. As used in this chapter:

(a) ‘detective’ means a private detective or investigator.

(b) ‘guard’ means a private guard, guard-patrolman, patrolman or watchman.

(c) ‘board’ means the board of detectives and guards described in section 165A-2.

Section 165A-2. Board of private detectives and guards; appointment; qualifications; term. Appointment and removal. There shall be a board consisting of four members, three of whom shall be nominated, and by and with the advice and consent of the senate, appointed by the governor. The terms of such members shall be for four years, provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each term shall commence on January 1 and expire on December 31. No person shall be appointed consecutively to more than two terms provided, that such membership shall not exceed eight consecutive years. The treasurer of the State of Hawaii shall be an ex officio non-voting fourth member of the board and may designate a representative to sit in his stead.

Of the three appointed members, one shall be the chief of police of any of the four counties, one shall be a private citizen not engaged in any of the licensed practices and one shall be a person actively engaged in any of the licensed practices.

The board shall examine applicants for a private detective or guard licenses, grant licenses, and revoke or suspend licenses of licensees who violate the provisions of this chapter.

Section 165A-3. Policy and Standards. It is the policy of this State to protect the general public from unlawful and unethical conduct and operation of the business of private detectives and guards. The board may adopt, amend or repeal rules and regulations, which shall have the force and effect of law, relating to qualifications for licensing of private detectives and guards, to the conduct and operation of the businesses of such license, and to the revocation or suspension for cause of such licenses. The board shall consult with appropriate state and federal agencies and any appropriate industry or trade organization in establishing such rules and regulations. The rules and regulations so established shall be on the basis of what the board may deem best suited to the public interest.

Section 165A-4. Procedure in revocation or suspension of licenses.

(a) Actions to revoke or suspend licenses granted under the provisions of this chapter shall be commenced by verified signed complaints.

(b) A copy of the complaint and an order to show cause why the accused's license should not be subjected to disciplinary action shall be served by certified mail to the accused's last known business address.

(c) The accused shall be given thirty days from the date of mailing such notice in which to answer.

(d) Any licensee whose license has been revoked or suspended may file an appeal to the circuit courts, and his license shall remain in force pending the determination by the circuit court of his appeal.

(e) Prosecution of such actions shall be conducted by the department of the attorney general.

Section 165A-5. Private detectives, guards and agencies; license required.

No person shall engage in the business of private detective or guard, represent himself to be, hold himself out as, list himself or advertise as a private detective or guard or as furnishing detective investigating services or guard services without first obtaining a license as a private detective or guard from the board upon payment of a licensing fee of \$25 per annum and no corporation, partnership or association shall engage in the business of private detective or guard, represent itself to be, hold itself out as, list itself or advertise as a private detective or guard agency or bureau or as furnishing detective, investigating or guard services without first obtaining a license as a private detective or guard agency from the board upon payment of a licensing fee of \$25 per annum.

Section 165A-6. Private detective; qualifications for license. The board may grant a private detective license to any suitable citizen of the United States and to any suitable corporation, partnership or association making written application therefor. The applicant, if an individual, or the principal detective of a corporation shall be not less than twenty-five years of age and of good moral character, shall have a high school education or its equivalent and shall have had experience reasonably equivalent to at least four years of full-time investigational work. Any licensee may employ as many agents, operatives and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal detective if a corporation is the employer, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude. Employees shall have had eighth grade education or its equivalent.

Section 165A-7. Guard License required. No person, firm, partnership or corporation shall engage in the business of guard for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent himself or itself to be, or hold itself out as such without first obtaining a license as a guard or guard agency from the board upon payment of a licensing fee of \$25 per annum.

Section 165A-8. Guard; qualifications for license. The board may grant a guard or a guard agency license to any suitable citizen of the United States and to any suitable corporation, partnership or association making written application therefor. The applicant, if an individual, or the principal guard in the case of a corporation, shall be not less than twenty-five years of age and of good moral character, shall have a high school education or its equivalent and shall have had experience reasonably equivalent to at least four years of full-time guard work. Any licensee may employ as many agents, operatives and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal guard if the employer is a corporation, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude. Employees shall have had an eighth grade education or its equivalent.

Section 165A-9. Form of application for license. Application for such license shall be made under oath on a form to be furnished by the board, which form may require a statement of the applicant's full name, age, date and place of birth, residence and business address, the business or occupation the applicant has engaged in for ten years immediately preceding the date of the filing of the application with names and addresses of employers, the date and place of any conviction of a felony or of any offense involving moral turpitude, and such information, including fingerprints of the applicant and such other information as the board may require to investigate the character, competency and integrity of the applicant. The application shall be accompanied by affidavits of three reputable citizens of the State residing in the locality where the applicant proposes to conduct his business, stating that the applicant is a person of good moral character.

Section 165A-10. Licenses and renewal of licenses. The license shall state the name and address of the principal office or place of business of the licensee, the name under which the licensed business is to be conducted, and the name of the principal detective or guard, if the licensee is a corporation.

The holder of a license issued by the board who continues in active practice shall annually renew his license and pay the renewal fee not later than June 30th.

Section 165A-11. Association with government not to be implied. No licensee shall use any designation or trade name which implies any association with any municipal, county, state or territorial government or the federal government, or any agency thereof; nor shall a licensee or employee of any licensee wear any badge or uniform capable of being associated with the badge or uniform of any government law enforcement organization.

Section 165A-12. Bond. Each licensee, individual or corporate, shall give to the board a bond in the sum of not less than \$5,000 executed by the applicant as principal and by a surety company authorized to do business in the

State as surety. The bond shall be in such form as the board may prescribe, conditioned upon the honest conduct of the business of the licensee, and the right of any person injured by the wilful, malicious or wrongful act of the licensee to bring in his own name an action on the bond.

Section 165A-13. Exemptions. The provisions of this chapter shall not apply to any person, firm, company, partnership or corporation or any bureau or agency whose business is exclusively the furnishing of information as to the business and financial standing and credit responsibility of persons, firms, or corporations, or as to personal habits and financial responsibility, of applicants for insurance, indemnity bonds or commercial credit, or a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, or an attorney at law in performing his duties as such attorney at law.

Section 165A-14. Contingent fee. Compensation for services of detectives or guards shall not be based upon promissory notes or property other than that allegedly stolen which have been obtained from suspects or others in their behalf as restitution.

Section 165A-15. Penalties. Any employee or former employee of a licensee who divulges any information gained by him in the course of such employment except as his employer directs or as required by law, or who wilfully makes a false report to his employer, shall be fined not more than \$100 or imprisoned not more than six months or both. Any person who violates any other provision of this chapter or any rule or regulation adopted by the board under this chapter shall be fined not more than \$500 or imprisoned not more than one year or both.

Section 165A-16. Disposition of funds. All moneys collected by the board shall be paid to the department of treasury and regulation and shall be deposited with the state director of budget and review to the credit of the general fund of the State."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **H.B. 1304.**
