

1                   HB635  
2                   131453-1  
3                   By Representative Sanderford  
4                   RFD: Boards, Agencies and Commissions  
5                   First Read: 24-MAY-11

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8 SYNOPSIS: Under existing law, the Electronic Security  
9 Board of Licensure licenses and regulates alarm  
10 system installers and locksmiths.

11 This bill would specify that the powers of  
12 the board include making inspections relating to  
13 unlicensed operations, would delete the specified  
14 date of December 31 of each year for licenses to  
15 expire, would specify that each offense would be  
16 punished as provided by law, and would further  
17 provide for civil enforcement of the law by  
18 injunctive relief and civil fines.

19 Under existing law, the licensure law does  
20 not apply in counties having a population of 30,000  
21 inhabitants or less according to the most recent  
22 decennial census.

23 This bill would repeal this provision.

24  
25 A BILL

26 TO BE ENTITLED

27 AN ACT

To amend Sections 34-1A-3, 34-1A-5, and 34-1A-7 of the Code of Alabama 1975, relating to the Electronic Security Board of Licensure and providing for the licensure and regulation of alarm system installers and locksmiths, to provide that the powers of the board include making inspections relating to unlicensed operations, to delete the specified date for licenses to expire, to specify that each offense would be punishable as provided by law, and would further provide for civil enforcement, including civil fines, for violations of the licensure law; and to repeal Section 34-1A-10 of the Code of Alabama 1975, exempting counties having a population of 30,000 or less from the operation of the law.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-1A-3, 34-1A-5, and 34-1A-7 of the Code of Alabama 1975, are amended to read as follows:

"§34-1A-3.

"The board shall have all of the following powers:

"(1) License and regulate persons and business entities engaged in business as an alarm system installer or as a locksmith.

"(2) Establish the qualifications for licensure to ensure competency and integrity to engage in these businesses and allow graduates of technical school or community college programs in related fields to qualify. Qualifications for

1 licensure shall include the requirement that the applicant is  
2 a United States citizen or legally present in this state.

3                 "(3) Examine, or cause to be examined, the  
4 qualifications of each applicant for licensure including the  
5 preparation, administration, and grading of examinations, and  
6 when necessary, requiring the applicant to supply a board  
7 approved background investigation.

8                 "(4) License qualified applicants regulated by the  
9 board.

10                 "(5) Revoke, suspend, or fail to renew a license for  
11 just cause as enumerated in the regulations of the board.

12                 "(6) Levy and collect reasonable fees for licensure,  
13 including, but not limited to, the application process and  
14 testing of applicants, and renewal, suspension, and reissuance  
15 of licenses, and costs of necessary hearings, that are  
16 sufficient to cover all expenses for the administration and  
17 operation of the board.

18                 "(7) Promulgate rules and regulations in accordance  
19 with the Administrative Procedure Act necessary to perform its  
20 duties, to ensure continued competency, to prevent deceptive,  
21 misleading, or criminal practices by its licensees, and to  
22 effectively administer the regulatory system administered by  
23 the board.

24                 "(8) Register or by other means monitor employees of  
25 a licensee to ensure such employees do not impair the ability  
26 of the licensee to satisfy the requirements of this chapter.

"(9) Receive and investigate complaints concerning the conduct of any person or business entity whose activities are regulated by the board, conduct hearings in accordance with procedures established by the board pursuant to the Alabama Administrative Procedure Act, and take appropriate disciplinary action if warranted.

"(10) Ensure that periodic inspections are conducted relating to the operations of licensees to ensure competency and lawful compliance.

"(11) Require the purchase of comprehensive liability insurance related to business activities in a minimum specified amount.

"(12) Require licensees and employees of licensees have available a photo identification card at all times when providing licensed services.

"(13) Promulgate canons of ethics under which the regulated professional activities of persons and business entities shall be conducted.

"(14) Employ or contract for necessary personnel, including a director, and provide necessary offices, supplies, and equipment to fulfill the requirements of this chapter.

"(15) Delegate its powers and duties by resolution to a named designee.

"(16) Enter into contracts and expend funds of the board to fulfill the requirements of this chapter.

1                             "(17) Borrow money for the initial start-up  
2 operation of the board until sufficient receipts are paid into  
3 the special revenue trust fund specified in Section 34-1A-9.

4                             "(18) Work with the office of the Attorney General  
5 and other law enforcement agencies to prohibit any violation  
6 of this chapter.

7                             "(19) Establish volunteer procedures for those  
8 persons or businesses that are exempt from this chapter.

9                             "(20) Conduct inspections relating to the operations  
10 of unlicensed persons, firms, or corporations to ensure lawful  
11 compliance with this chapter.

12                             "§34-1A-5.

13                             "(a) The board shall issue licenses authorized by  
14 this chapter to all qualified individuals in accordance with  
15 rules or regulations established by the board.

16                             "(b) The annual license fee as set by the board  
17 shall not exceed one hundred fifty dollars (\$150) for an  
18 individual and seven hundred fifty dollars (\$750) for a  
19 business entity.

20                             "(c) The license shall not be transferred or  
21 assigned and is valid only with respect to the person to whom  
22 it is issued.

23                             "(d) (1) No license shall be granted if the applicant  
24 has had any prior business license revoked for fraud,  
25 misrepresentation, or any other act that would constitute a  
26 violation of this chapter.

1                         "(2)a. An applicant shall not be refused a license  
2 solely because of a prior criminal conviction, unless the  
3 criminal conviction directly relates to the occupation or  
4 profession for which the license is sought. The board may  
5 refuse a license if, based on all the information available,  
6 including the applicant's record of prior convictions, the  
7 board finds that the applicant is unfit or unsuited to engage  
8 in the business.

9                         "(b. The board may consult with appropriate state or  
10 federal law enforcement authorities to verify whether an  
11 applicant has a criminal record prior to granting any license  
12 and, as an aid to this duty, each applicant may be required to  
13 provide his or her fingerprints and complete an affidavit of  
14 his or her criminal record, if any, as a part of the  
15 application. The board may periodically consult with state and  
16 federal law enforcement officials to determine whether current  
17 licensees have new criminal convictions.

18                         "(e) Any license granted pursuant to this chapter  
19 shall expire ~~December 31 of each year unless it is renewed~~  
20 pursuant to ~~regulations~~ rules established by the board or  
21 unless it is suspended or revoked.

22                         "(f) An affirmative vote of a majority of board  
23 members shall be required before any action to suspend or  
24 revoke a license, to impose a sanction on a licensee, or to  
25 levy a monetary penalty. A board member shall disqualify  
26 himself or herself and withdraw from any case in which he or  
27 she cannot accord fair and impartial consideration.

"(g) A nonresident of this state may be licensed by meeting one of the following requirements:

"(1) Conforming to the provisions of this chapter and the regulations of the board.

"(2) Holding a valid license in another state with which reciprocity has been established by the board.

"(h) A licensee shall display the license at its normal place of business and in a manner easily readable by the general public.

"(i) A notice shall be displayed prominently in the place of business of each licensee regulated pursuant to this chapter containing the name, mailing address, and telephone number of the board, and a statement informing consumers that complaints against licensees may be directed to the board.

"(j) The license number of a licensee shall be displayed in all advertising.

"(k) The board shall prepare information of consumer interest describing the regulatory functions and describing the procedures of the board by which consumer complaints shall be filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies. The board shall provide upon request a listing of all licensees. The board may collect a fee for the cost of duplicating and mailing materials.

"(1) Each written contract for services in the state of a licensee shall contain the name, mailing address, and telephone number of the board and a statement informing

1 consumers that complaints against licensees may be directed to  
2 the board.

3                         "(m) Notice of the issuance, revocation,  
4 reinstatement, or expiration of every license issued by the  
5 board shall be furnished to the sheriff of the county and the  
6 chief of police, as appropriate, and the inspection department  
7 of the city where the principal place of business of a  
8 licensee is located.

9                         "(n) Information contained in alarm system records  
10 held by the board concerning the location of an alarm system,  
11 the name of the occupant residing at the alarm system  
12 location, or the type of alarm system used shall be  
13 confidential and disclosed only to the board or as otherwise  
14 required by law.

15                         "§34-1A-7.

16                         "(a) Effective January 1, 1998, it shall be unlawful  
17 for any person or business entity to engage in a business  
18 regulated by this chapter in this state without a current  
19 valid license or in violation of this chapter and applicable  
20 rules and regulations of the board.

21                         "(b) Effective January 1, 1998, it shall be unlawful  
22 for a person or business entity not licensed under this  
23 chapter to advertise or hold out to the public that he or she  
24 is a licensee of the board.

25                         "(c) Any person or business entity who violates  
26 this chapter or any order, rule, or regulation of the board  
27 shall be guilty of a Class A misdemeanor, and for each offense

1                   for which he or she is convicted shall be punished as provided  
2                   by law.

3                   "(d) Effective January 1, 1998, it shall also  
4                   constitute a Class A misdemeanor to willfully or intentionally  
5                   do any of the following:

6                   "(1) Obliterate the serial number on an alarm system  
7                   for the purpose of falsifying service reports.

8                   "(2) Knowingly and deliberately improperly install  
9                   an alarm system, or knowingly and deliberately improperly  
10                  service such a system.

11                  "(3) While holding a license, allow another person  
12                  or business entity to use the license or license number.

13                  "(4) Use, or permit the use of, any license by a  
14                  person or business entity other than the one to whom the  
15                  license is issued.

16                  "(5) Use any credential, method, means, or practice  
17                  to impersonate a representative of the board.

18                  "(6) Make use of any designation provided by statute  
19                  or regulation to denote a standard of professional or  
20                  occupational competence without being duly licensed.

21                  "(7) Make use of any title, words, letters, or  
22                  abbreviations which may reasonably be confused with a  
23                  designation provided by statute or regulation to denote a  
24                  standard of professional or occupational competence without  
25                  being duly licensed.

"(8) Provide material misrepresenting facts in an application for licensure or in other communications with the board.

"(9) Refuse to furnish the board information or records required or requested pursuant to statute or regulation.

"(e) The board may institute proceedings in equity to enjoin any person or business entity from engaging in any unlawful act enumerated in this chapter. Such proceedings shall be brought in the name of this state by the board in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides.

"(f) In addition to any other disciplinary action taken by the board, any person or business entity licensed by the board who violates this chapter or rule or regulation promulgated pursuant to this chapter shall be subject to a monetary penalty. If the board determines that the person is in fact guilty of the violation, the board shall determine the amount of the monetary penalty for the violation, which shall not exceed one thousand dollars (\$1,000) for each violation. The board may file a civil action to collect the penalty.

"(g) The board is entitled to costs and reasonable attorney fees in any civil action or administrative proceeding in which the board obtains relief.

"(h) In addition to or in lieu of the criminal penalties and administrative sanctions provided in this chapter, the board may issue an order to any person, firm, or

1 corporation engaged in any activity, conduct, or practice  
2 constituting a violation of this chapter directing the person,  
3 firm, or corporation to forthwith cease and desist from the  
4 activity, conduct, practice, or the performance of any work  
5 being done then or about to be commenced. The order shall be  
6 issued in the name of the State of Alabama under the official  
7 seal of the board. If the person, firm, or corporation to whom  
8 the board directs a cease and desist order does not cease or  
9 desist the proscribed activity, conduct, practice, or  
10 performance of the work immediately, the board may petition  
11 any court of competent jurisdiction to issue a writ of  
12 injunction enjoining the person, firm, or corporation from  
13 engaging in any activity, conduct, practice, or performance of  
14 work as prohibited by this chapter. Upon a showing by the  
15 board that the person, firm, or corporation has engaged or is  
16 engaged in any activity, conduct, practice, or performance of  
17 any work prohibited by this chapter, the court shall grant  
18 injunctive relief enjoining the person, firm, or corporation  
19 from engaging in such unlawful activity, conduct, practice, or  
20 performance of work. Upon the issuance of a permanent  
21 injunction, the court may fine the offending party up to five  
22 thousand dollars (\$5,000), plus costs and attorney fees, for  
23 each offense. A judgment for a civil fine, attorney fees, and  
24 costs may be rendered in the same judgment in which the  
25 injunction is made absolute.

26 " (i) Any person violating this chapter who fails to  
27 cease work after a hearing and notification from the board

shall not be eligible to apply for a license from the board for a period not to exceed one year from the date of official notification to cease work. In addition, the board may withhold approval for up to six months of any application from any person who prior to the application has been found in violation of this chapter."

Section 2. Section 34-1A-10 of the Code of Alabama 1975, is repealed.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.