

CHAPTER 493

PRIVATE INVESTIGATIVE, PRIVATE SECURITY, AND REPOSSESSION SERVICES

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PART I

GENERAL PROVISIONS

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493.6100 Legislative intent.--The Legislature recognizes that the private security, investigative, and recovery industries are rapidly expanding fields that require regulation to ensure that the

interests of the public will be adequately served and protected. The Legislature recognizes that untrained persons, unlicensed persons or businesses, or persons who are not of good moral character engaged in the private security, investigative, and recovery industries are a threat to the welfare of the public if placed in positions of trust. Regulation of licensed and unlicensed persons and businesses engaged in these fields is therefore deemed necessary.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 1, ch. 94-172.

493.6101 Definitions.--

- (1) "Department" means the Department of Agriculture and Consumer Services.
- (2) "Person" means any individual, firm, company, agency, organization, partnership, or corporation.
- (3) "Licensee" means any person licensed under this chapter.
- (4) The personal pronoun "he" or the personal pronoun "she" implies the impersonal pronoun "it."
- (5) "Principal officer" means an individual who holds the office of president, vice president, secretary, or treasurer in a corporation.
- (6) "Advertising" means the submission of bids, contracting, or making known by any public notice or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.
- (7) "Good moral character" means a personal history of honesty, fairness, and respect for the rights and property of others and for the laws of this state and nation.
- (8) "Conviction" means an adjudication of guilt by a federal or state court resulting from plea or trial, regardless of whether imposition of sentence was suspended.
- (9) "Unarmed" means that no firearm shall be carried by the licensee while providing services regulated by this chapter.
- (10) "Branch office" means each additional location of an agency where business is actively conducted which advertises as performing or is engaged in the business authorized by the license.

(11) "Sponsor" means any Class "C," Class "MA," or Class "M" licensee who supervises and maintains under his or her direction and control a Class "CC" intern; or any Class "E" or Class "MR" licensee who supervises and maintains under his or her direction and control a Class "EE" intern.

(12) "Intern" means an individual who studies as a trainee or apprentice under the direction and control of a designated sponsoring licensee.

(13) "Manager" means any licensee who directs the activities of licensees at any agency or branch office. The manager shall be assigned to and shall primarily operate from the agency or branch office location for which he or she has been designated as manager.

(14) "Firearm instructor" means any Class "K" licensee who provides classroom or range instruction to applicants for a Class "G" license.

(15) "Private investigative agency" means any person who, for consideration, advertises as providing or is engaged in the business of furnishing private investigations.

(16) "Private investigator" means any individual who, for consideration, advertises as providing or performs private investigation. This does not include an informant who, on a one-time or limited basis, as a result of a unique expertise, ability, vocation, or special access and who, under the direction and control of a Class "C" licensee or a Class "MA" licensee, provides information or services that would otherwise be included in the definition of private investigation.

(17) "Private investigation" means the investigation by a person or persons for the purpose of obtaining information with reference to any of the following matters:

(a) Crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation.

(b) The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.

(c) The credibility of witnesses or other persons.

(d) The whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates.

(e) The location or recovery of lost or stolen property.

(f) The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property.

(g) The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefor.

(18) "Security agency" means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners. This includes any person who utilizes dogs and individuals to provide security services.

(19) "Security officer" means any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.

(20) "Recovery agency" means any person who, for consideration, advertises as providing or is engaged in the business of performing repossessions.

(21) "Recovery agent" means any individual who, for consideration, advertises as providing or performs repossessions.

(22) "Repossession" means the recovery of a motor vehicle as defined under s. 320.01(1), or mobile home as defined in s. 320.01(2), or motorboat as defined under s. 327.02, by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause. A repossession is complete when a licensed recovery agent is in control, custody, and possession of such motor vehicle, mobile home, or motorboat.

(23) "Felony" means a criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in the state penitentiary; a crime in any other state or a crime against the United States which is designated as a felony; or an offense in any other state, territory, or country punishable by imprisonment for a term exceeding 1 year.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 10, ch. 94-241; s. 5, ch. 96-407; s. 1137, ch. 97-103; s. 1, ch. 97-248; s. 34, ch. 2001-36; s. 4, ch. 2002-295.

493.6102 Inapplicability of this chapter.--This chapter shall not apply to:

(1) Any individual who is an "officer" as defined in s. 943.10(14) or is a law enforcement officer of the United States Government, while such local, state, or federal officer is engaged in her or his official duties or when performing off-duty security activities approved by her or his superiors.

(2) Any insurance investigator or adjuster licensed by a state or federal licensing authority when such person is providing services or expert advice within the scope of her or his license.

(3) Any individual solely, exclusively, and regularly employed as an unarmed investigator or recovery agent in connection with the business of her or his employer, when there exists an employer-employee relationship.

(4) Any unarmed individual engaged in security services who is employed exclusively to work on the premises of her or his employer, or in connection with the business of her or his employer, when there exists an employer-employee relationship.

(5) Any person or bureau whose business is exclusively the furnishing of information concerning the business and financial standing and credit responsibility of persons or the financial habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit.

(6) Any attorney in the regular practice of her or his profession.

(7) Any bank or bank holding company, credit union, or small loan company operating pursuant to chapters 516 and 520; any consumer credit reporting agency regulated under 15 U.S.C. ss. 1681 et seq.; or any collection agency not engaged in repossessions or to any permanent employee thereof.

(8) Any person who holds a professional license under the laws of this state when such person is providing services or expert advice in the profession or occupation in which that person is so licensed.

(9) Any security agency or private investigative agency, and employees thereof, performing contractual security or investigative services solely and exclusively for any agency of the United States.

(10) Any person duly authorized by the laws of this state to operate a central burglar or fire alarm business. However, such persons are not exempt to the extent they perform services requiring licensure or registration under this chapter.

(11) Any person or company retained by a food service establishment to independently evaluate the food service establishment including quality of food, service, and facility. However, such persons are not exempt to the extent they investigate or are retained to investigate criminal or suspected criminal behavior on the part of the food service establishment employees.

(12) Any person who is a school crossing guard employed by a third party hired by a city or county and trained in accordance with s. 316.75.

(13) Any individual employed as a security officer by a religious institution as defined in s. 199.183(2)(a) to provide security on the institution property, and who does not carry a firearm in the course of her or his duties.

(14) Any person or firm that solely and exclusively conducts genealogical research, or otherwise traces lineage or ancestry, by primarily utilizing public records and historical information and databases.

(15) Any licensed Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473.

History.--ss. 2, 11, ch. 90-364; s. 16, ch. 91-248; s. 4, ch. 91-429; s. 2, ch. 94-172; s. 6, ch. 96-407; s. 1138, ch. 97-103; s. 69, ch. 97-190; s. 2, ch. 97-248; s. 35, ch. 2001-36.

493.6103 Authority to make rules.--The department shall adopt rules necessary to administer this chapter. However, no rule shall be adopted that unreasonably restricts competition or the availability of services requiring licensure pursuant to this chapter or that unnecessarily increases the cost of such services without a corresponding or equivalent public benefit.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429.

493.6104 Advisory council.--

(1) The department shall designate an advisory council, known as the Private Investigation, Recovery, and Security Advisory Council, to be composed of 11 members. One member must be an active law enforcement officer, certified under the Florida Criminal Justice Standards and Training Commission, representing a statewide law enforcement agency or statewide association

of law enforcement agencies. One member must be the owner or operator of a business that regularly contracts with Class "A," Class "B," or Class "R" agencies. Nine members must be geographically distributed, insofar as possible, and must be licensed pursuant to this chapter. Two members must be from the security profession, one of whom represents an agency that employs 20 security guards or fewer; two members must be from the private investigative profession, one of whom represents an agency that employs five investigators or fewer; one member shall be from the repossession profession; and the remaining four members may be drawn from any of the professions regulated under this chapter.

(2) Council members shall be appointed by the Commissioner of Agriculture for a 4-year term. In the event of an appointment to fill an unexpired term, the appointment shall be for no longer than the remainder of the unexpired term. No member may serve more than two full consecutive terms. Members may be removed by the Commissioner of Agriculture for cause. Cause shall include, but is not limited to, absences from two consecutive meetings.

(3) Members shall elect a chairperson annually. No member may serve as chairperson more than twice.

(4) The council shall meet at least 4 times yearly upon the call of the chairperson, at the request of a majority of the membership, or at the request of the department. Notice of council meetings and the agenda shall be published in the Florida Administrative Weekly at least 14 days prior to such meeting.

(5) The council shall advise the department and make recommendations relative to the regulation of the security, investigative, and recovery industries.

(6) Council members shall serve without pay; however, state per diem and travel allowances may be claimed for attendance at officially called meetings as provided by s. 112.061.

(7) A quorum of six members shall be necessary for a meeting to convene or continue. All official action taken by the council shall be by simple majority of those members present. Members may not participate or vote by proxy. Meetings shall be recorded, and minutes of the meetings shall be maintained by the department.

(8) The director of the Division of Licensing or the director's designee shall serve, in a nonvoting capacity, as secretary to the council. The Division of Licensing shall provide all administrative and legal support required by the council in the conduct of its official business.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 3, ch. 94-172; s. 526, ch. 97-103; s. 5, ch. 2002-295.

493.6105 Initial application for license.--

(1) Each individual, partner, or principal officer in a corporation, shall file with the department a complete application accompanied by an application fee not to exceed \$60, except that the applicant for a Class "D" or Class "G" license shall not be required to submit an application fee. The application fee shall not be refundable.

(a) The application submitted by any individual, partner, or corporate officer shall be approved by the department prior to that individual, partner, or corporate officer assuming his or her duties.

(b) Individuals who invest in the ownership of a licensed agency, but do not participate in, direct, or control the operations of the agency shall not be required to file an application.

(2) Each application shall be signed by the individual under oath and shall be notarized.

(3) The application shall contain the following information concerning the individual signing same:

(a) Name and any aliases.

(b) Age and date of birth.

(c) Place of birth.

(d) Social security number or alien registration number, whichever is applicable.

(e) Present residence address and his or her residence addresses within the 5 years immediately preceding the submission of the application.

(f) Occupations held presently and within the 5 years immediately preceding the submission of the application.

(g) A statement of all convictions.

(h) A statement whether he or she has ever been adjudicated incompetent under chapter 744.

(i) A statement whether he or she has ever been committed to a mental institution under chapter 394.

(j) A full set of fingerprints on a card provided by the department and a fingerprint fee to be established by rule of the department based upon costs determined by state and federal agency charges and department processing costs. An applicant who has, within the immediately preceding 6 months, submitted a fingerprint card and fee for licensing purposes under this chapter shall not be required to submit another fingerprint card or fee.

(k) A personal inquiry waiver which allows the department to conduct necessary investigations to satisfy the requirements of this chapter.

(l) Such further facts as may be required by the department to show that the individual signing the application is of good moral character and qualified by experience and training to satisfy the requirements of this chapter.

(4) In addition to the application requirements outlined in subsection (3), the applicant for a Class "C," Class "CC," Class "E," Class "EE," or Class "G" license shall submit two color photographs taken within the 6 months immediately preceding the submission of the application, which meet specifications prescribed by rule of the department. All other applicants shall submit one photograph taken within the 6 months immediately preceding the submission of the application.

(5) In addition to the application requirements outlined under subsection (3), the applicant for a Class "C," Class "E," Class "M," Class "MA," Class "MB," or Class "MR" license shall include a statement on a form provided by the department of the experience which he or she believes will qualify him or her for such license.

(6) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license shall satisfy minimum training criteria for firearms established by rule of the department, which training criteria shall include, but is not limited to, 28 hours of range and classroom training taught and administered by a Class "K" licensee; however, no more than 8 hours of such training shall consist of range training. If the applicant can show proof that he or she is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission or has completed the training required for that certification within the last 12 months, or if the applicant submits one of the certificates specified in paragraph (7)(a), the department may waive the foregoing firearms training requirement.

(7) In addition to the requirements under subsection (3), an applicant for a Class "K" license shall:

(a) Submit one of the following certificates:

1. The Florida Criminal Justice Standards and Training Commission Firearms Instructor's Certificate.
2. The National Rifle Association Police Firearms Instructor's Certificate.
3. The National Rifle Association Security Firearms Instructor's Certificate.
4. A Firearms Instructor's Certificate from a federal, state, county, or municipal police academy in this state recognized as such by the Criminal Justice Standards and Training Commission or by the Department of Education.

(b) Pay the fee for and pass an examination administered by the department which shall be based upon, but is not necessarily limited to, a firearms instruction manual provided by the department.

(8) In addition to the application requirements for individuals, partners, or officers outlined under subsection (3), the application for an agency license shall contain the following information:

(a) The proposed name under which the agency intends to operate.

(b) The street address, mailing address, and telephone numbers of the principal location at which business is to be conducted in this state.

(c) The street address, mailing address, and telephone numbers of all branch offices within this state.

(d) The names and titles of all partners or, in the case of a corporation, the names and titles of its principal officers.

(9) Upon submission of a complete application, a Class "CC," Class "C," Class "D," Class "EE," Class "E," Class "M," Class "MA," Class "MB," or Class "MR" applicant may commence employment or appropriate duties for a licensed agency or branch office. However, the Class "C" or Class "E" applicant must work under the direction and control of a sponsoring licensee while his or her application is being processed. If the department denies application for licensure, the employment of the applicant must be terminated immediately, unless he or she performs only unregulated duties.

History.--ss. 2, 11, ch. 90-364; s. 1, ch. 91-248; s. 4, ch. 91-429; s. 1, ch. 93-49; s. 527, ch. 97-103; s. 3, ch. 97-248.

493.6106 License requirements; posting.--

(1) Each individual licensed by the department must:

(a) Be at least 18 years of age.

(b) Be of good moral character.

(c) Not have been adjudicated incapacitated under s. 744.331 or a similar statute in another state, unless her or his capacity has been judicially restored; not have been involuntarily placed in a treatment facility for the mentally ill under chapter 394 or a similar statute in any other state, unless her or his competency has been judicially restored; and not have been diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this state certifies that she or he does not currently suffer from the mental illness.

(d) Not be a chronic and habitual user of alcoholic beverages to the extent that her or his normal faculties are impaired; not have been committed under chapter 397, former chapter 396, or a similar law in any other state; not have been found to be a habitual offender under s. 856.011(3) or a similar law in any other state; and not have had two or more convictions under s. 316.193 or a similar law in any other state within the 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently impaired and has successfully completed a rehabilitation course.

(e) Not have been committed for controlled substance abuse or have been found guilty of a crime under chapter 893 or a similar law relating to controlled substances in any other state within a 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing any controlled substance and has successfully completed a rehabilitation course.

(f) Be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Bureau of Citizenship and Immigration Services.

(2) Each agency shall have a minimum of one physical location within this state from which the normal business of the agency is conducted, and this location shall be considered the primary office for that agency in this state.

(a) If an agency desires to change the physical location of the business, as it appears on the agency license, the department must be notified within 10 days of the change, and, except upon renewal, the fee prescribed in s. 493.6107 must be submitted for each license requiring revision. Each license requiring revision must be returned with such notification.

(b) The Class "A," Class "B," or Class "R" license and any branch office or school license shall at all times be posted in a conspicuous place at the licensed physical location in this state where the business is conducted.

(c) Each Class "A," Class "B," Class "R," branch office, or school licensee shall display, in a place that is in clear and unobstructed public view, a notice on a form prescribed by the department stating that the business operating at this location is licensed and regulated by the Department of State and that any questions or complaints should be directed to the department.

(d) A minimum of one properly licensed manager shall be designated for each agency and branch office location.

(3) Each Class "C," Class "CC," Class "D," Class "DI," Class "E," Class "EE," Class "G," Class "K," Class "M," Class "MA," Class "MB," Class "MR," or Class "RI" licensee shall notify the division in writing within 10 days of a change in her or his residence or mailing address.

History.--ss. 2, 11, ch. 90-364; s. 2, ch. 91-248; s. 4, ch. 91-429; s. 2, ch. 93-49; s. 4, ch. 94-172; s. 528, ch. 97-103; s. 83, ch. 2004-5.

493.6107 Fees.--

(1) The department shall establish by rule examination and biennial license fees which shall not exceed the following:

(a) Class "M" license--manager Class "AB" agency: \$75.

(b) Class "G" license--statewide firearm license: \$150.

(c) Class "K" license--firearms instructor: \$100.

(d) Fee for the examination for firearms instructor: \$75.

(2) The department may establish by rule a fee for the replacement or revision of a license which fee shall not exceed \$30.

(3) The fees set forth in this section must be paid by certified check or money order or, at the discretion of the department, by agency check at the time the application is approved, except that the applicant for a Class "G" or Class "M" license must pay the license fee at the time the application is made. If a license is revoked or denied or if the application is withdrawn, the license fee shall not be refunded.

(4) The department may prorate license fees.

(5) Payment of any license fee provided for under this chapter authorizes the licensee to practice his or her profession anywhere in this state without obtaining any additional license, permit, registration, or identification card, any municipal or county ordinance or resolution to the contrary notwithstanding. However, an agency may be required to obtain a city and county occupational license in each city and county where the agency maintains a physical office.

History.--ss. 2, 11, ch. 90-364; s. 3, ch. 91-248; s. 4, ch. 91-429; s. 5, ch. 94-172; s. 529, ch. 97-103.

493.6108 Investigation of applicants by Department of Agriculture and Consumer Services.--

(1) Except as otherwise provided, prior to the issuance of a license under this chapter, the department shall make an investigation of the applicant for a license. The investigation shall include:

(a)1. An examination of fingerprint records and police records. When a criminal history analysis of any applicant under this chapter is performed by means of fingerprint card identification, the time limitations prescribed by s. 120.60(1) shall be tolled during the time the applicant's fingerprint card is under review by the Department of Law Enforcement or the United States Department of Justice, Federal Bureau of Investigation.

2. If a legible set of fingerprints, as determined by the Department of Law Enforcement or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of Agriculture and Consumer Services may determine the applicant's eligibility based upon a criminal history record check under the applicant's name conducted by the Department of Law Enforcement and the Federal Bureau of Investigation. A set of fingerprints taken by a law enforcement agency and a written statement signed by the fingerprint technician or a licensed physician stating that there is a physical condition that precludes obtaining a legible set of fingerprints or that the fingerprints taken are the best that can be obtained is sufficient to meet this requirement.

(b) An inquiry to determine if the applicant has been adjudicated incompetent under chapter 744 or has been committed to a mental institution under chapter 394.

(c) Such other investigation of the individual as the department may deem necessary.

(2) In addition to subsection (1), the department shall make an investigation of the general physical fitness of the Class "G" applicant to bear a weapon or firearm. Determination of physical fitness shall be certified by a physician currently licensed pursuant to chapter 458, chapter 459, or any similar law of another state or authorized to act as a licensed physician by a federal agency or department. Such certification shall be submitted on a form provided by the department.

(3) The department shall also investigate the mental history and current mental and emotional fitness of any Class "G" applicant, and may deny a Class "G" license to anyone who has a history of mental illness or drug or alcohol abuse.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 3, ch. 93-49; s. 6, ch. 94-172; s. 230, ch. 96-410; s. 4, ch. 97-248; s. 6, ch. 2002-295.

493.6109 Reciprocity.--

(1) The department may adopt rules for:

(a) Entering into reciprocal agreements with other states or territories of the United States for the purpose of licensing persons to perform activities regulated under this chapter who are currently licensed to perform similar services in the other states or territories; or

(b) Allowing a person who is licensed in another state or territory to perform similar services in this state, on a temporary and limited basis, without the need for licensure in state.

(2) The rules authorized in subsection (1) may be promulgated only if:

(a) The other state or territory has requirements which are substantially similar to or greater than those established in this chapter.

(b) The applicant has engaged in licensed activities for at least 1 year in the other state or territory with no disciplinary action against him or her.

(c) The Commissioner of Agriculture or other appropriate authority of the other state or territory agrees to accept service of process for those licensees who are operating in this state on a temporary basis.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 530, ch. 97-103; s. 7, ch. 2002-295.

493.6110 Licensee's insurance.--No agency license shall be issued unless the applicant first files with the department a certification of insurance evidencing coverage as delineated below. The coverage shall provide the department as an additional insured for the purpose of receiving all notices of modification or cancellation of such insurance. Coverage shall be written by an insurance company which is lawfully engaged to provide insurance coverage in Florida. Coverage shall provide for a combined single-limit policy in the amount of at least \$300,000, which policy shall include comprehensive general liability coverage for death, bodily injury, property damage, and personal injury coverage including false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation of character, and violation of the right of privacy. Coverage shall insure for the liability of all employees licensed by the department while acting in the course of their employment.

(1) The licensed agency shall notify the department of any claim against such insurance.

(2) The licensed agency shall notify the department immediately upon cancellation of the insurance policy, whether such cancellation was initiated by the insurance company or the insured agency.

(3) The agency license shall be automatically suspended upon the date of cancellation unless evidence of insurance is provided to the department prior to the effective date of cancellation.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-248; s. 4, ch. 91-429.

493.6111 License; contents; identification card.--

(1) All licenses issued pursuant to this chapter shall be on a form prescribed by the department and shall include the licensee's name, license number, expiration date of the license, and any other information the department deems necessary. Class "C," Class "CC," Class "D," Class "E," Class "EE," Class "M," Class "MA," Class "MB," Class "MR," and Class "G" licenses shall be in the possession of individual licensees while on duty.

(2) Licenses shall be valid for a period of 2 years, except for Class "A," Class "B," Class "AB," Class "R," and branch agency licenses, which shall be valid for a period of 3 years.

(3) The department shall, upon complete application and payment of the appropriate fees, issue a separate license to each branch office for which application is made.

(4) Notwithstanding the existence of a valid Florida corporate registration, no agency licensee may conduct activities regulated under this chapter under any fictitious name without prior written authorization from the department to use that name in the conduct of activities regulated under this chapter. The department may not authorize the use of a name which is so similar to that of a public officer or agency, or of that used by another licensee, that the public may be confused or misled thereby. The authorization for the use of a fictitious name shall require, as a condition precedent to the use of such name, the filing of a certificate of engaging in business under a fictitious name under s. 865.09. No licensee shall be permitted to conduct business under more than one name except as separately licensed nor shall the license be valid to protect any licensee who is engaged in the business under any name other than that specified in the license. An agency desiring to change its licensed name shall notify the department and, except upon renewal, pay a fee not to exceed \$30 for each license requiring revision including those of all licensed employees except Class "D" or Class "G" licensees. Upon the return of such licenses to the department, revised licenses shall be provided.

(5) It shall be the duty of every agency to furnish all of its partners, principal corporate officers, and all licensed employees an identification card. The card shall specify at least the name and license number, if appropriate, of the holder of the card and the name and license number of the agency and shall be signed by a representative of the agency and by the holder of the card.

(a) Each individual to whom a license and identification card have been issued shall be responsible for the safekeeping thereof and shall not loan, or let or allow any other individual to use or display, the license or card.

(b) The identification card shall be in the possession of each partner, principal corporate officer, or licensed employee while on duty.

(c) Upon denial, suspension, or revocation of a license, or upon termination of a business association with the licensed agency, it shall be the duty of each partner, principal corporate officer, manager, or licensed employee to return the identification card to the issuing agency.

(6) A licensed agency must include its agency license number in any advertisement in any print medium or directory, and must include its agency license number in any written bid or offer to provide services.

History.--ss. 2, 11, ch. 90-364; s. 5, ch. 91-248; s. 4, ch. 91-429; s. 4, ch. 93-49; s. 1, ch. 98-335.

493.6112 Notification to Department of Agriculture and Consumer Services of changes of partner or officer or employees.--

(1) After filing the application, unless the department declines to issue the license or revokes it after issuance, an agency or school shall, within 5 working days of the withdrawal, removal, replacement, or addition of any or all partners or officers, notify and file with the department complete applications for such individuals. The agency's or school's good standing under this chapter shall be contingent upon the department's approval of any new partner or officer.

(2) Each agency or school shall, upon the employment or termination of employment of a licensee, report such employment or termination immediately to the department and, in the case of a termination, report the reason or reasons therefor. The report shall be on a form prescribed by the department.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 8, ch. 2002-295.

493.6113 Renewal application for licensure.--

(1) A license granted under the provisions of this chapter shall be renewed biennially by the department, except for Class "A," Class "B," Class "AB," Class "R," and branch agency licenses, which shall be renewed every 3 years.

(2) No less than 90 days prior to the expiration date of the license, the department shall mail a written notice to the last known residence address for individual licensees and to the last known agency address for agencies.

(3) Each licensee shall be responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the prescribed license fee.

(a) Each Class "A," Class "B," or Class "R" licensee shall additionally submit on a form prescribed by the department a certification of insurance which evidences that the licensee maintains coverage as required under s. 493.6110.

(b) Each Class "G" licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms recertification training taught by a Class "K" licensee and has complied with such other health and training requirements which the department may adopt by rule. If proof of a minimum of 4 hours of annual firearms recertification training cannot be provided, the renewal applicant shall complete the minimum number of hours of range and classroom training required at the time of initial licensure.

(c) Each Class "DS" or Class "RS" licensee shall additionally submit the current curriculum, examination, and list of instructors.

(4) A licensee who fails to file a renewal application on or before its expiration must renew his or her license by fulfilling the applicable requirements of subsection (3) and by paying a late fee equal to the amount of the license fee.

(5) No license shall be renewed 3 months or more after its expiration date. The applicant shall submit a new, complete application and the respective fees.

(6) A renewal applicant shall not perform any activity regulated by this chapter between the date of expiration and the date of renewal of his or her license.

History.--ss. 2, 11, ch. 90-364; s. 6, ch. 91-248; s. 4, ch. 91-429; s. 43, ch. 95-144; s. 531, ch. 97-103; s. 2, ch. 98-335.

493.6114 Cancellation or inactivation of license.--

(1) In the event the licensee desires to cancel her or his license, she or he shall notify the department in writing and return the license to the department within 10 days of the date of cancellation.

(2) The department, at the written request of the licensee, may place her or his license in inactive status. A license may remain inactive for a period of 3 years, at the end of which time, if the license has not been renewed, it shall be automatically canceled. If the license expires during the inactive period, the licensee shall be required to pay license fees and, if applicable, show proof of insurance or proof of firearms training before the license can be made active. No late fees shall apply when a license is in inactive status.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 532, ch. 97-103.

493.6115 Weapons and firearms.--

(1) The provisions of this section shall apply to all licensees in addition to the other provisions of this chapter.

(2) Only Class "C," Class "CC," Class "D," Class "M," Class "MA," or Class "MB" licensees are permitted to bear a firearm and any such licensee who bears a firearm shall also have a Class "G" license.

(3) No employee shall carry or be furnished a weapon or firearm unless the carrying of a weapon or firearm is required by her or his duties, nor shall an employee carry a weapon or firearm except in connection with those duties. When carried pursuant to this subsection, the weapon or firearm shall be encased in view at all times except as provided in subsection (4).

(4) A Class "C" or Class "CC" licensee 21 years of age or older who has also been issued a Class "G" license may carry, in the performance of her or his duties, a concealed firearm. A Class "D" licensee 21 years of age or older who has also been issued a Class "G" license may carry a concealed firearm in the performance of her or his duties under the conditions specified in s. 493.6305(2). The Class "G" license shall clearly indicate such authority. The authority of any such licensee to carry a concealed firearm shall be valid throughout the state, in any location, while performing services within the scope of the license.

(5) The Class "G" license shall remain in effect only during the period the applicant is employed as a Class "C," Class "CC," Class "D," Class "MA," Class "MB," or Class "M" licensee.

(6) Unless otherwise approved by the department, the only firearm a Class "CC," Class "D," Class "M," or Class "MB" licensee who has been issued a Class "G" license may carry is a .38 or .357 caliber revolver with factory .38 caliber ammunition only. In addition to any other firearm approved by the department, a Class "C" or Class "MA" licensee who has been issued a Class "G" license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only. A Class "C" licensee who also holds a Class "D" license, and who has been issued a Class "G" license, may carry a 9 millimeter semiautomatic pistol while performing security-related services. No licensee may carry more than two firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm of the specific type and caliber with which she or he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

(7) Any person who provides classroom and range instruction to applicants for Class "G" licensure shall have a Class "K" license.

(8) A Class "G" applicant must satisfy the minimum training criteria as set forth in s. 493.6105(6) and as established by rule of the department.

(9) Whenever a Class "G" licensee discharges her or his firearm in the course of her or his duties, the Class "G" licensee and the agency by which she or he is employed shall, within 5 working days, submit to the department an explanation describing the nature of the incident, the necessity for using the firearm, and a copy of any report prepared by a law enforcement agency. The department may revoke or suspend the Class "G" licensee's license and the licensed agency's agency license if this requirement is not met.

(10) The department may promulgate rules to establish minimum standards to issue licenses for weapons other than firearms.

(11) The department may establish rules to require periodic classroom training for firearms instructors to provide updated information relative to curriculum or other training requirements provided by statute or rule.

(12) The department may issue a temporary Class "G" license, on a case-by-case basis, if:

(a) The agency or employer has certified that the applicant has been determined to be mentally and emotionally stable by either:

1. A validated written psychological test taken within the previous 12-month period.
2. An evaluation by a psychiatrist or psychologist licensed in this state or by the Federal Government made within the previous 12-month period.
3. Presentation of a DD form 214, issued within the previous 12-month period, which establishes the absence of emotional or mental instability at the time of discharge from military service.

(b) The applicant has submitted a complete application for a Class "G" license, with a notation that she or he is seeking a temporary Class "G" license.

(c) The applicant has completed all Class "G" minimum training requirements as specified in this section.

(d) The applicant has received approval from the department subsequent to its conduct of a criminal history record check as authorized in s. 493.6121(6).

(13) In addition to other fees, the department may charge a fee, not to exceed \$25, for processing a Class "G" license application as a temporary Class "G" license request.

(14) Upon issuance of the temporary Class "G" license, the licensee is subject to all of the requirements imposed upon Class "G" licensees.

(15) The temporary Class "G" license is valid until the Class "G" license is issued or denied. If the department denies the Class "G" license, any temporary Class "G" license issued to that individual is void, and the individual shall be removed from armed duties immediately.

(16) If the criminal history record check program referenced in s. 493.6121(6) is inoperable, the department may issue a temporary "G" license on a case-by-case basis, provided that the applicant has met all statutory requirements for the issuance of a temporary "G" license as specified in subsection (12), excepting the criminal history record check stipulated there; provided, that the department requires that the licensed employer of the applicant conduct a criminal history record check of the applicant pursuant to standards set forth in rule by the department, and provide to the department an affidavit containing such information and statements as required by the department, including a statement that the criminal history record check did not indicate the existence of any criminal history that would prohibit licensure. Failure to properly conduct such a check, or knowingly providing incorrect or misleading information or statements in the affidavit shall constitute grounds for disciplinary action against the licensed agency, including revocation of license.

(17) No person is exempt from the requirements of this section by virtue of holding a concealed weapon or concealed firearm license issued pursuant to s. 790.06.

History.--ss. 2, 11, ch. 90-364; s. 7, ch. 91-248; s. 4, ch. 91-429; s. 7, ch. 94-172; s. 533, ch. 97-103; s. 5, ch. 97-248.

493.6116 Sponsorship of interns.--

(1) Only licensees may sponsor interns. A Class "C," Class "M," or Class "MA" licensee may sponsor a Class "CC" private investigator intern; a Class "E" or Class "MR" licensee may sponsor a Class "EE" recovery agent intern.

(2) An internship may not commence until the sponsor has submitted to the department the notice of intent to sponsor. Such notice shall be on a form provided by the department.

(3) Internship is intended to serve as a learning process. Sponsors shall assume a training status by providing direction and control of interns. Sponsors shall only sponsor interns whose place of business is within a 50-mile distance of the sponsor's place of business and shall not allow interns to operate independently of such direction and control, or require interns to perform activities which do not enhance the intern's qualification for licensure.

(4) No sponsor may sponsor more than six interns at the same time.

(5) A sponsor shall certify a biannual progress report on each intern and shall certify completion or termination of an internship to the department within 15 days after such completion or termination. The report must be made on a form provided by the department and must include at a minimum:

(a) The inclusive dates of the internship.

(b) A narrative part explaining the primary duties, types of experiences gained, and the scope of training received.

(c) An evaluation of the performance of the intern and a recommendation regarding future licensure.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 8, ch. 94-172; s. 68, ch. 95-144.

493.6117 Division of Licensing Trust Fund.--There is created within the Division of Licensing of the department a Division of Licensing Trust Fund. All moneys required to be paid under this chapter shall be collected by the department and deposited in the trust fund. The Division of Licensing Trust Fund shall be subject to the service charge imposed pursuant to chapter 215. The Legislature shall appropriate from the fund such amounts as it deems necessary for the purpose of administering the provisions of this chapter. The unencumbered balance in the trust fund at the beginning of the year shall not exceed \$100,000, and any excess shall be transferred to the General Revenue Fund unallocated.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429.

493.6118 Grounds for disciplinary action.--

(1) The following constitute grounds for which disciplinary action specified in subsection (2) may be taken by the department against any licensee, agency, or applicant regulated by this chapter, or any unlicensed person engaged in activities regulated under this chapter.

- (a) Fraud or willful misrepresentation in applying for or obtaining a license.
- (b) Use of any fictitious or assumed name by an agency unless the agency has department approval and qualifies under s. 865.09.
- (c) Being found guilty of or entering a plea of guilty or nolo contendere to, regardless of adjudication, or being convicted of a crime that directly relates to the business for which the license is held or sought. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the individual being disciplined or denied an application for a license to present any mitigating circumstances surrounding his or her plea.
- (d) A false statement by the licensee that any individual is or has been in his or her employ.
- (e) A finding that the licensee or any employee is guilty of willful betrayal of a professional secret or any unauthorized release of information acquired as a result of activities regulated under this chapter.
- (f) Proof that the applicant or licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of the activities regulated under this chapter.
- (g) Conducting activities regulated under this chapter without a license or with a revoked or suspended license.
- (h) Failure of the licensee to maintain in full force and effect the general liability insurance coverage required by s. 493.6110.
- (i) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or an employee of the state, the United States, or any political subdivision thereof by identifying himself or herself as a federal, state, county, or municipal law enforcement officer or official representative, by wearing a uniform or presenting or displaying a badge or credentials that would cause a reasonable person to believe that he or she is a law enforcement officer or that he or she has official authority, by displaying any flashing or warning vehicular lights other than amber colored, or by committing any act that is intended to falsely convey official status.
- (j) Commission of an act of violence or the use of force on any person except in the lawful protection of one's self or another from physical harm.

(k) Knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, capias, warrant, injunction, or cease and desist order, in the course of business regulated under this chapter.

(l) Soliciting business for an attorney in return for compensation.

(m) Transferring or attempting to transfer a license issued pursuant to this chapter.

(n) Employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter, or performing any act that assists, aids, or abets a person or business entity in engaging in unlicensed activity, when the licensure status was known or could have been ascertained by reasonable inquiry.

(o) Failure or refusal to cooperate with or refusal of access to an authorized representative of the department engaged in an official investigation pursuant to this chapter.

(p) Failure of any partner, principal corporate officer, or licensee to have his or her identification card in his or her possession while on duty.

(q) Failure of any licensee to have his or her license in his or her possession while on duty, as specified in s. 493.6111(1).

(r) Failure or refusal by a sponsor to certify a biannual written report on an intern or to certify completion or termination of an internship to the department within 15 working days.

(s) Failure to report to the department any person whom the licensee knows to be in violation of this chapter or the rules of the department.

(t) Violating any provision of this chapter.

(u) In addition to the grounds for disciplinary action prescribed in paragraphs (a)-(t), Class "R" recovery agencies, Class "E" recovery agents, and Class "EE" recovery agent interns are prohibited from committing the following acts:

1. Recovering a motor vehicle, mobile home, or motorboat that has been sold under a conditional sales agreement or under the terms of a chattel mortgage before authorization has been received from the legal owner or mortgagee.

2. Charging for expenses not actually incurred in connection with the recovery, transportation, storage, or disposal of a motor vehicle, mobile home, motorboat, or personal property.
3. Using any motor vehicle, mobile home, or motorboat that has been repossessed, or using personal property obtained in a repossession, for the personal benefit of a licensee or an officer, director, partner, manager, or employee of a licensee.
4. Selling a motor vehicle, mobile home, or motorboat recovered under the provisions of this chapter, except with written authorization from the legal owner or the mortgagee thereof.
5. Failing to notify the police or sheriff's department of the jurisdiction in which the repossessed property is recovered within 2 hours after recovery.
6. Failing to remit moneys, collected in lieu of recovery of a motor vehicle, mobile home, or motorboat, to the client within 10 working days.
7. Failing to deliver to the client a negotiable instrument that is payable to the client, within 10 working days after receipt of such instrument.
8. Falsifying, altering, or failing to maintain any required inventory or records regarding disposal of personal property contained in or on a recovered motor vehicle, mobile home, or motorboat pursuant to s. 493.6404(1).
9. Carrying any weapon or firearm when he or she is on private property and performing duties under his or her license whether or not he or she is licensed pursuant to s. 790.06.
10. Soliciting from the legal owner the recovery of property subject to repossession after such property has been seen or located on public or private property if the amount charged or requested for such recovery is more than the amount normally charged for such a recovery.
11. Wearing, presenting, or displaying a badge in the course of repossessing a motor vehicle, mobile home, or motorboat.

(2) When the department finds any violation of subsection (1), it may do one or more of the following:

- (a) Deny an application for the issuance or renewal of a license.
- (b) Issue a reprimand.

(c) Impose an administrative fine not to exceed \$1,000 for every count or separate offense.

(d) Place the licensee on probation for a period of time and subject to such conditions as the department may specify.

(e) Suspend or revoke a license.

(3) The department may deny an application for licensure citing lack of good moral character only if the finding by the department of lack of good moral character is supported by clear and convincing evidence. In such cases, the department shall furnish the applicant a statement containing the findings of the department, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to an administrative hearing and subsequent appeal.

(4) Notwithstanding the provisions of paragraph (1)(c) and subsection (2):

(a) If the applicant or licensee has been convicted of a felony, the department shall deny the application or revoke the license unless and until civil rights have been restored by the State of Florida or by a state acceptable to Florida and a period of 10 years has expired since final release from supervision.

(b) A Class "G" applicant who has been convicted of a felony shall also have had the specific right to possess, carry, or use a firearm restored by the State of Florida.

(c) If the applicant or licensee has been found guilty of, entered a plea of guilty to, or entered a plea of nolo contendere to a felony and adjudication of guilt is withheld, the department shall deny the application or revoke the license until a period of 3 years has expired since final release from supervision.

(d) A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the person being disciplined or denied an application for a license to present any mitigating circumstances surrounding his or her plea.

(e) The grounds for discipline or denial cited in this subsection shall be applied to any disqualifying criminal history regardless of the date of commission of the underlying criminal charge. Such provisions shall be applied retroactively and prospectively.

(5) Upon revocation or suspension of a license, the licensee shall forthwith return the license which was suspended or revoked.

(6) The agency license and the approval or license of each officer, partner, or owner of the agency are automatically suspended upon entry of a final order imposing an administrative fine against the agency, until the fine is paid, if 30 calendar days have elapsed since the entry of the final order. All owners and corporate or agency officers or partners are jointly and severally liable for agency fines. Neither the agency license or the approval or license of any officer, partner, or owner of the agency may be renewed, nor may an application be approved if the owner, licensee, or applicant is liable for an outstanding administrative fine imposed under this chapter. An individual's approval or license becomes automatically suspended if a fine imposed against the individual or his or her agency is not paid within 30 days after the date of the final order, and remains suspended until the fine is paid. Notwithstanding the provisions of this subsection, an individual's approval or license may not be suspended nor may an application be denied when the licensee or the applicant has an appeal from a final order pending in any appellate court.

(7) An applicant or licensee shall be ineligible to reapply for the same class of license for a period of 1 year following final agency action resulting in the denial or revocation of a license applied for or issued under this chapter. This time restriction shall not apply to administrative denials wherein the basis for denial was:

- (a) An inadvertent error or omission on the application;
- (b) The experience documented by the department was insufficient at the time of application;
- (c) The department was unable to complete the criminal background investigation due to insufficient information from the Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency; or
- (d) Failure to submit required fees.

History.--ss. 2, 11, ch. 90-364; s. 8, ch. 91-248; s. 4, ch. 91-429; s. 5, ch. 93-49; s. 9, ch. 94-172; s. 534, ch. 97-103; s. 6, ch. 97-248.

493.6119 Divulging investigative information; false reports prohibited.--

(1) Except as otherwise provided by this chapter or other law, no licensee, or any employee of a licensee or licensed agency shall divulge or release to anyone other than her or his client or employer the contents of an investigative file acquired in the course of licensed investigative activity. However, the prohibition of this section shall not apply when the client for whom the information was acquired, or the client's lawful representative, has alleged a violation of this

chapter by the licensee, licensed agency, or any employee, or when the prior written consent of the client to divulge or release such information has been obtained.

(2) Nothing in this section shall be construed to deny access to any business or operational records, except as specified in subsection (1), by an authorized representative of the department engaged in an official investigation, inspection, or inquiry pursuant to the regulatory duty and investigative authority of this chapter.

(3) Any licensee or employee of a licensee or licensed agency who, in reliance on subsection (1), denies access to an investigative file to an authorized representative of the department shall state such denial in writing within 2 working days of the request for access. Such statement of denial shall include the following:

(a) That the information requested was obtained by a licensed private investigator on behalf of a client; and

(b) That the client has been advised of the request and has denied permission to grant access; or

(c) That the present whereabouts of the client is unknown or attempts to contact the client have been unsuccessful but, in the opinion of the person denying access, review of the investigative file under conditions specified by the department would be contrary to the interests of the client; or

(d) That the requested investigative file will be provided pursuant to a subpoena issued by the department.

(4) No licensee or any employer or employee of a licensee or licensed agency shall willfully make a false statement or report to her or his client or employer or an authorized representative of the department concerning information acquired in the course of activities regulated by this chapter.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 535, ch. 97-103.

493.6120 Violations; penalty.--

(1) Any person who violates any provision of this chapter except s. 493.6405 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who is convicted of any violation of this chapter shall not be eligible for licensure for a period of 5 years.

(3) Any person who violates or disregards any cease and desist order issued by the department commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the department may seek the imposition of a civil penalty not to exceed \$5,000.

(4) Any person who was an owner, officer, partner, or manager of a licensed agency at the time of any activity that is the basis for revocation of the agency or branch office license and who knew or should have known of the activity, shall have his or her personal licenses or approval suspended for 3 years and may not have any financial interest in or be employed in any capacity by a licensed agency during the period of suspension.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 6, ch. 93-49; s. 536, ch. 97-103.

493.6121 Enforcement; investigation.--

(1) The department shall have the power to enforce the provisions of this chapter, irrespective of the place or location in which the violation occurred, and, upon the complaint of any person or on its own initiative, to cause to be investigated any suspected violation thereof or to cause to be investigated the business and business methods of any licensed or unlicensed person, agency or employee thereof, or applicant for licensure under this chapter.

(2) In any investigation undertaken by the department, each licensed or unlicensed person, applicant, agency, or employee shall, upon request of the department provide records and shall truthfully respond to questions concerning activities regulated under this chapter. Such records shall be maintained in this state for a period of 2 years at the principal place of business of the licensee, or at any other location within the state for a person whose license has been terminated, canceled, or revoked. Upon request by the department the records must be made available immediately to the department unless the department determines that an extension may be granted.

(3) The department shall have the authority to investigate any licensed or unlicensed person, firm, company, partnership, or corporation when such person, firm, company, partnership, or corporation is advertising as providing or is engaged in performing services which require licensure under this chapter or when a licensee is engaged in activities which do not comply with or are prohibited by this chapter; and the department shall have the authority to issue an order to

cease and desist the further conduct of such activities, or seek an injunction, or take other appropriate action pursuant to s. 493.6118(2)(a) or (c).

(4) In the exercise of its enforcement responsibility and in the conduct of any investigation authorized by this chapter, the department shall have the power to subpoena and bring before it any person in the state, require the production of any papers it deems necessary, administer oaths, and take depositions of any persons so subpoenaed. If any person fails or refuses to comply with a proper subpoena to be examined or fails or refuses to answer any question about her or his qualifications or the business methods or business practices under investigation or refuses access to agency records in accordance with s. 493.6119, the circuit court of Leon County or of the county wherein such person resides may issue an order on the application of the department requiring such person to comply with the subpoena and to testify. Such failure or refusal shall also be grounds for revocation, suspension, or other disciplinary action. The testimony of witnesses in any such proceeding shall be under oath before the department or its agents.

(5) In order to carry out the duties of the department prescribed in this chapter, designated employees of the Division of Licensing of the Department of State may obtain access to the information in criminal justice information systems and to criminal justice information as defined in s. 943.045, on such terms and conditions as are reasonably calculated to provide necessary information and protect the confidentiality of the information. Such criminal justice information submitted to the division is confidential and exempt from the provisions of s. 119.07(1).

(6) The department shall be provided access to the program that is operated by the Department of Law Enforcement, pursuant to s. 790.065, for providing criminal history record information to licensed gun dealers, manufacturers, and exporters. The department may make inquiries, and shall receive responses in the same fashion as provided under s. 790.065. The department shall be responsible for payment to the Department of Law Enforcement of the same fees as charged to others afforded access to the program.

(7) The Department of Legal Affairs shall represent the Department of Agriculture and Consumer Services in judicial proceedings seeking enforcement of this chapter, or upon an action by any party seeking redress against the department, and shall coordinate with the department in the conduct of any investigations incident to its legal responsibility.

(8) Any investigation conducted by the department pursuant to this chapter is exempt from s. 119.07(1) until:

(a) The investigation of the complaint has been concluded and determination has been made by the department as to whether probable cause exists;

(b) The case is closed prior to a determination by the department as to whether probable cause exists; or

(c) The subject of the investigation waives her or his privilege of confidentiality.

History.--ss. 2, 11, ch. 90-364; s. 17, ch. 91-248; s. 4, ch. 91-429; s. 5, ch. 92-183; s. 2, ch. 93-197; s. 10, ch. 94-172; s. 69, ch. 95-144; s. 326, ch. 96-406; s. 1139, ch. 97-103; s. 7, ch. 97-248; s. 9, ch. 2002-295.

493.6122 Information about licensees; confidentiality.--The residence telephone number and residence address of any Class "C," Class "CC," Class "E," or Class "EE" licensee maintained by the department is confidential and exempt from the provisions of s. 119.07(1), except that the department may provide this information to local, state, or federal law enforcement agencies. When the residence telephone number or residence address of such licensee is, or appears to be, the business telephone number or business address, this information shall be public record.

History.--ss. 2, 11, ch. 90-364; s. 18, ch. 91-248; s. 4, ch. 91-429; s. 327, ch. 96-406.

493.6123 Publication to industry.--

(1) The department shall have the authority to periodically, through the publication of a newsletter, advise its licensees of information that the department or the advisory council determines is of interest to the industry. Additionally, this newsletter shall contain the name and locality of any licensed or unlicensed person or agency against which the department has filed a final order relative to an administrative complaint and shall contain the final disposition. This newsletter shall be published not less than two or more than four times annually.

(2) The department shall develop and make available to each Class "C," Class "D," and Class "E" licensee and all interns a pamphlet detailing in plain language the legal authority, rights, and obligations of his or her class of licensure. Within the pamphlet, the department should endeavor to present situations that the licensee may be expected to commonly encounter in the course of doing business pursuant to his or her specific license, and provide to the licensee information on his or her legal options, authority, limits to authority, and obligations. The department shall supplement this with citations to statutes and legal decisions, as well as a selected bibliography that would direct the licensee to materials the study of which would enhance his or her

professionalism. The department shall provide a single copy of the appropriate pamphlet without charge to each individual to whom a license is issued, but may charge for additional copies to recover its publication costs. The pamphlet shall be updated every 2 years as necessary to reflect rule or statutory changes, or court decisions. Intervening changes to the regulatory situation shall be noticed in the industry newsletter issued pursuant to subsection (1).

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 537, ch. 97-103.

493.6124 Use of state seal; prohibited.--No person or licensee shall use any facsimile reproduction or pictorial portion of the Great Seal of the State of Florida on any badge, credentials, identification card, or other means of identification used in connection with any activities regulated under this chapter.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429.

493.6125 Maintenance of information concerning administrative complaints and disciplinary actions.--The department shall maintain statistics and relevant information, by profession, for private investigators, recovery agents, and private security officers which details:

- (1) The number of complaints received and investigated.
- (2) The number of complaints initiated and investigated by the department.
- (3) The disposition of each complaint.
- (4) The number of administrative complaints filed by the department.
- (5) The disposition of all administrative complaints.
- (6) A description of all disciplinary actions taken by profession.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429; s. 19, ch. 94-172; s. 49, ch. 95-196.

493.6126 Saving clauses.--

- (1) No judicial or administrative proceeding pending on October 1, 1990, shall be abated as a result of the repeal and reenactment of this chapter.

(2) All licenses valid on October 1, 1990, shall remain in full force and effect until expiration or revocation by the department. Henceforth, all licenses shall be applied for and renewed in accordance with this chapter.

History.--ss. 2, 11, ch. 90-364; s. 4, ch. 91-429.

PART II

PRIVATE INVESTIGATIVE SERVICES

493.6201 Classes of licenses.

493.6202 Fees.

493.6203 License requirements.

493.6201 Classes of licenses.--

(1) Any person, firm, company, partnership, or corporation which engages in business as a private investigative agency shall have a Class "A" license. A Class "A" license is valid for only one location.

(2) Each branch office of a Class "A" agency shall have a Class "AA" license. Where a person, firm, company, partnership, or corporation holds both a Class "A" and Class "B" license, each additional or branch office shall have a Class "AB" license.

(3) Any individual who performs the services of a manager for a:

(a) Class "A" private investigative agency or Class "AA" branch office shall have a Class "MA" license. A Class "C" or Class "M" licensee may be designated as the manager, in which case the Class "MA" license is not required.

(b) Class "A" and "B" agency or a Class "AB" branch office shall have a Class "M" license.

(4) Class "C" or Class "CC" licensees shall own or be an employee of a Class "A" agency, a Class "A" and Class "B" agency, or a branch office. This does not include those who are exempt under s. 493.6102, but who possess a Class "C" license solely for the purpose of holding a Class "G" license.

(5) Any individual who performs the services of a private investigator shall have a Class "C" license.

(6) Any individual who performs private investigative work as an intern under the direction and control of a designated, sponsoring Class "C" licensee or a designated, sponsoring Class "MA" or Class "M" licensee must have a Class "CC" license.

(7) Only Class "M," Class "MA," Class "C," or Class "CC" licensees are permitted to bear a firearm, and any such licensee who bears a firearm shall also have a Class "G" license.

(8) A Class "C" or Class "CC" licensee may perform bodyguard services without obtaining a Class "D" license.

History.--ss. 3, 11, ch. 90-364; s. 4, ch. 91-429; s. 11, ch. 94-172; s. 70, ch. 95-144; s. 8, ch. 97-248.

493.6202 Fees.--

(1) The department shall establish by rule examination and biennial license fees, which shall not exceed the following:

(a) Class "A" license--private investigative agency: \$450.

(b) Class "AA" or "AB" license--branch office: \$125.

(c) Class "MA" license--private investigative agency manager: \$75.

(d) Class "C" license--private investigator: \$75.

(e) Class "CC" license--private investigator intern: \$60.

(2) The department may establish by rule a fee for the replacement or revision of a license, which fee shall not exceed \$30.

(3) The fees set forth in this section must be paid by certified check or money order or, at the discretion of the department, by agency check at the time the application is approved, except that the applicant for a Class "G," Class "C," Class "CC," Class "M," or Class "MA" license must pay the license fee at the time the application is made. If a license is revoked or denied or if the application is withdrawn, the license fee shall not be refunded.

History.--ss. 3, 11, ch. 90-364; s. 4, ch. 91-429; s. 12, ch. 94-172.

493.6203 License requirements.--In addition to the license requirements set forth elsewhere in this chapter, each individual or agency shall comply with the following additional requirements:

- (1) Each agency or branch office shall designate a minimum of one appropriately licensed individual to act as manager, directing the activities of the Class "C" or Class "CC" employees.
- (2) An applicant for a Class "MA" license shall have 2 years of lawfully gained, verifiable, full-time experience, or training in:
 - (a) Private investigative work or related fields of work that provided equivalent experience or training;
 - (b) Work as a Class "CC" licensed intern;
 - (c) Any combination of paragraphs (a) and (b);
 - (d) Experience described in paragraph (a) for 1 year and experience described in paragraph (e) for 1 year;
 - (e) No more than 1 year using:
 1. College coursework related to criminal justice, criminology, or law enforcement administration; or
 2. Successfully completed law enforcement-related training received from any federal, state, county, or municipal agency; or
 - (f) Experience described in paragraph (a) for 1 year and work in a managerial or supervisory capacity for 1 year.
- (3) An applicant for a Class "M" license shall qualify for licensure as a Class "MA" manager as outlined under subsection (2) and as a Class "MB" manager as outlined under s. 493.6303(2).
- (4) An applicant for a Class "C" license shall have 2 years of lawfully gained, verifiable, full-time experience, or training in one, or a combination of more than one, of the following:

(a) Private investigative work or related fields of work that provided equivalent experience or training.

(b) College coursework related to criminal justice, criminology, or law enforcement administration, or successful completion of any law enforcement-related training received from any federal, state, county, or municipal agency, except that no more than 1 year may be used from this category.

(c) Work as a Class "CC" licensed intern.

(5) A Class "CC" licensee shall serve an internship under the direction and control of a designated sponsor, who is a Class "C," Class "MA," or Class "M" licensee.

(6) In addition to any other requirement, an applicant for a Class "G" license shall satisfy the firearms training set forth in s. 493.6115.

History.--ss. 3, 11, ch. 90-364; s. 9, ch. 91-248; s. 4, ch. 91-429.

PART III

PRIVATE SECURITY SERVICES

493.6301 Classes of licenses.

493.6302 Fees.

493.6303 License requirements.

493.6304 Security officer school or training facility.

493.6305 Uniforms, required wear; exceptions.

493.6301 Classes of licenses.--

(1) Any person, firm, company, partnership, or corporation which engages in business as a security agency shall have a Class "B" license. A Class "B" license is valid for only one location.

(2) Each branch office of a Class "B" agency shall have a Class "BB" license. Where a person, firm, company, partnership, or corporation holds both a Class "A" and Class "B" license, each branch office shall have a Class "AB" license.

(3) Any individual who performs the services of a manager for a:

(a) Class "B" security agency or Class "BB" branch office shall have a Class "MB" license. A Class "M" licensee, or a Class "D" licensee who has been so licensed for a minimum of 2 years, may be designated as the manager, in which case the Class "MB" license is not required.

(b) Class "A" and Class "B" agency or a Class "AB" branch office shall have a Class "M" license.

(4) A Class "D" licensee shall own or be an employee of a Class "B" security agency or branch office. This does not include those individuals who are exempt under s. 493.6102(4) but who possess a Class "D" license solely for the purpose of holding a Class "G" license.

(5) Any individual who performs the services of a security officer shall have a Class "D" license. However, a Class "C" licensee or a Class "CC" licensee may perform bodyguard services without a Class "D" license.

(6) Only Class "M," Class "MB," or Class "D" licensees are permitted to bear a firearm, and any such licensee who bears a firearm shall also have a Class "G" license.

(7) Any person who operates a security officer school or training facility must have a Class "DS" license.

(8) Any individual who teaches or instructs at a Class "DS" security officer school or training facility must have a Class "DI" license.

History.--ss. 4, 11, ch. 90-364; s. 10, ch. 91-248; s. 4, ch. 91-429; s. 13, ch. 94-172; s. 71, ch. 95-144; s. 7, ch. 96-407; s. 9, ch. 97-248.

493.6302 Fees.--

(1) The department shall establish by rule biennial license fees, which shall not exceed the following:

(a) Class "B" license--security agency: \$450.

(b) Class "BB" or Class "AB" license--branch office: \$125.

(c) Class "MB" license--security agency manager: \$75.

(d) Class "D" license--security officer: \$45.

(e) Class "DS" license--security officer school or training facility: \$60.

(f) Class "DI" license--security officer school or training facility instructor: \$60.

(2) The department may establish by rule a fee for the replacement or revision of a license, which fee shall not exceed \$30.

(3) The fees set forth in this section must be paid by certified check or money order or, at the discretion of the department, by agency check at the time the application is approved, except that the applicant for a Class "D," Class "G," Class "M," or Class "MB" license must pay the license fee at the time the application is made. If a license is revoked or denied or if the application is withdrawn, the license fee shall not be refunded.

History.--ss. 4, 11, ch. 90-364; s. 4, ch. 91-429; s. 14, ch. 94-172.

493.6303 License requirements.--In addition to the license requirements set forth elsewhere in this chapter, each individual or agency shall comply with the following additional requirements:

(1) Each agency or branch office shall designate a minimum of one appropriately licensed individual to act as manager, directing the activities of the Class "D" employees.

(2) An applicant for a Class "MB" license shall have 2 years of lawfully gained, verifiable, full-time experience, or training in:

(a) Security work or related fields of work that provided equivalent experience or training;

(b) Experience described in paragraph (a) for 1 year and experience described in paragraph (c) for 1 year;

(c) No more than 1 year using:

1. Either college coursework related to criminal justice, criminology, or law enforcement administration; or

2. Successfully completed law enforcement-related training received from any federal, state, county, or municipal agency; or

(d) Experience described in paragraph (a) for 1 year and work in a managerial or supervisory capacity for 1 year.

(3) An applicant for a Class "M" license shall qualify for licensure as a Class "MA" manager as outlined under s. 493.6203(2) and as a Class "MB" manager as outlined under subsection (2).

(4)(a) Effective October 1, 1994, an applicant for a Class "D" license must have completed a minimum of 40 hours of professional training at a school or training facility licensed by the department. The department shall by rule establish the general content of the training.

(b) An applicant may fulfill the training requirement prescribed in paragraph (a) by submitting proof of:

1. Successful completion of 40 hours of training before initial application for a class "D" license;
or

2. Successful completion of 24 hours of training before initial application for, and 16 hours of training upon the first application for renewal of, a Class "D" license. However, individuals licensed before October 1, 1994, need not complete additional training hours in order to renew their licenses.

Any person whose license has been revoked or whose license has been expired for 1 year or longer is considered, upon reapplication for a license, an initial applicant and must submit proof of successful completion of 40 hours of professional training at a school or training facility licensed by the department.

(5) An applicant for a Class "G" license shall satisfy the firearms training outlined in s. 493.6115.

History.--ss. 4, 11, ch. 90-364; s. 11, ch. 91-248; s. 4, ch. 91-429; s. 15, ch. 94-172.

493.6304 Security officer school or training facility.--

(1) Any school, training facility, or instructor who offers the training outlined in s. 493.6303(4) for Class "D" applicants shall, before licensure of such school, training facility, or instructor, file with the department an application accompanied by an application fee in an amount to be determined by rule, not to exceed \$60. The fee shall not be refundable.

(2) The application shall be signed and notarized and shall contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, her or his name, address, and social security or alien registration number.

(b) The street address of the place at which the training is to be conducted.

(c) A copy of the training curriculum and final examination to be administered.

(3) The department shall adopt rules establishing the criteria for approval of schools, training facilities, and instructors.

History.--ss. 4, 11, ch. 90-364; s. 4, ch. 91-429; s. 538, ch. 97-103.

493.6305 Uniforms, required wear; exceptions.--

(1) Class "D" licensees shall perform duties regulated under this chapter in a uniform which bears at least one patch or emblem visible at all times clearly identifying the employing agency. Upon resignation or termination of employment, a Class "D" licensee shall immediately return to the employer any uniform and any other equipment issued to her or him by the employer.

(2) Class "D" licensees may perform duties regulated under this chapter in nonuniform status on a limited special assignment basis, and only when duty circumstances or special requirements of the client necessitate such dress.

(3) Class "D" licensees who are also Class "G" licensees and who are performing limited, special assignment duties may carry their authorized firearm concealed in the conduct of such duties.

History.--ss. 4, 11, ch. 90-364; s. 12, ch. 91-248; s. 4, ch. 91-429; s. 10, ch. 97-248; s. 30, ch. 99-7.

PART IV

REPOSSESSION SERVICES

493.6401 Classes of licenses.

493.6402 Fees.

493.6403 License requirements.

493.6404 Property inventory; vehicle license identification numbers.

493.6405 Sale of motor vehicle, mobile home, or motorboat by a licensee; penalty.

493.6406 Repossession services school or training facility.

493.6401 Classes of licenses.--

(1) Any person, firm, company, partnership, or corporation which engages in business as a recovery agency shall have a Class "R" license. A Class "R" license is valid for only one location.

(2) Each branch office of a Class "R" agency shall have a Class "RR" license.

(3) Any individual who performs the services of a manager for a Class "R" recovery agency or a Class "RR" branch office must have a Class "MR" license. A Class "E" licensee may be designated as the manager, in which case the Class "MR" license is not required.

(4) Any individual who performs the services of a recovery agent must have a Class "E" license.

(5) Any individual who performs repossession as an intern under the direction and control of a designated, sponsoring Class "E" licensee or a designated, sponsoring Class "MR" licensee shall have a Class "EE" license.

(6) Class "E" or Class "EE" licensees shall own or be an employee of a Class "R" agency or branch office.

(7) Any person who operates a repossession school or training facility shall have a Class "RS" license.

(8) Any individual who teaches or instructs at a Class "RS" repossession school or training facility shall have a Class "RI" license.

History.--ss. 5, 11, ch. 90-364; s. 14, ch. 91-248; s. 4, ch. 91-429; s. 7, ch. 93-49.

493.6402 Fees.--

(1) The department shall establish by rule biennial license fees which shall not exceed the following:

(a) Class "R" license--recovery agency: \$450.

(b) Class "RR" license--branch office: \$125.

(c) Class "MR" license--recovery agency manager: \$75.

(d) Class "E" license--recovery agent: \$75.

(e) Class "EE" license--recovery agent intern: \$60.

(f) Class "RS" license--repossessor school or training facility: \$60.

(g) Class "RI" license--repossessor school or training facility instructor: \$60.

(2) The department may establish by rule a fee for the replacement or revision of a license, which fee shall not exceed \$30.

(3) The fees set forth in this section must be paid by certified check or money order, or, at the discretion of the department, by agency check at the time the application is approved, except that the applicant for a Class "E," Class "EE," or Class "MR" license must pay the license fee at the time the application is made. If a license is revoked or denied, or if an application is withdrawn, the license fee shall not be refunded.

History.--ss. 5, 11, ch. 90-364; s. 4, ch. 91-429; s. 17, ch. 94-172.

493.6403 License requirements.--

(1) In addition to the license requirements set forth in this chapter, each individual or agency shall comply with the following additional requirements:

(a) Each agency or branch office must designate a minimum of one appropriately licensed individual to act as manager, directing the activities of the Class "E" or Class "EE" employees. A Class "E" licensee may be designated to act as manager of a Class "R" agency or branch office in which case the Class "MR" license is not required.

(b) An applicant for Class "MR" license shall have at least 1 year of lawfully gained, verifiable, full-time experience as a Class "E" licensee performing repossessions of motor vehicles, mobile homes, or motorboats.

(c) An applicant for a Class "E" license shall have at least 1 year of lawfully gained, verifiable, full-time experience in one, or a combination of more than one, of the following:

1. Repossession of motor vehicles as defined in s. 320.01(1), mobile homes as defined in s. 320.01(2), or motorboats as defined in s. 327.02.

2. Work as a Class "EE" licensed intern.

(2) Beginning October 1, 1994, an applicant for a Class "E" or a Class "EE" license must have completed a minimum of 40 hours of professional training at a school or training facility licensed by the department. The department shall by rule establish the general content for the training.

History.--ss. 5, 11, ch. 90-364; s. 15, ch. 91-248; s. 4, ch. 91-429; s. 8, ch. 93-49; s. 18, ch. 94-172; s. 11, ch. 94-241.

493.6404 Property inventory; vehicle license identification numbers.--

(1) If personal effects or other property not covered by a security agreement are contained in or on a recovered vehicle, mobile home, or motorboat at the time it is recovered, a complete and accurate inventory shall be made of such personal effects or property. The date and time the inventory is made shall be indicated, and it shall be signed by the Class "E" or Class "EE" licensee who obtained the personal property. The inventory of the personal property and the records regarding any disposal of personal property shall be maintained for a period of 2 years in the permanent records of the licensed agency and shall be made available, upon demand, to an authorized representative of the department engaged in an official investigation.

(2) Within 5 working days after the date of a repossession, the Class "E" or Class "EE" licensee shall give written notification to the debtor of the whereabouts of personal effects or other property inventoried pursuant to this section. At least 45 days prior to disposing of such personal effects or other property, the Class "E" or Class "EE" licensee shall, by United States Postal Service proof of mailing or certified mail, notify the debtor of the intent to dispose of said property. Should the debtor, or her or his lawful designee, appear to retrieve the personal property, prior to the date on which the Class "E" or Class "EE" licensee is allowed to dispose of the property, the licensee shall surrender the personal property to that individual upon payment of any reasonably incurred expenses for inventory and storage. If personal property is not claimed within 45 days of the notice of intent to dispose, the licensee may dispose of the personal property at her or his discretion, except that illegal items or contraband shall be surrendered to a law enforcement agency, and the licensee shall retain a receipt or other proof of surrender as part of the inventory and disposal records she or he maintains.

(3) Vehicles used for the purpose of repossession by a Class "E" or Class "EE" licensee must be identified during repossession by the license number of the Class "R" agency only, local ordinances to the contrary notwithstanding. These vehicles are not "wreckers" as defined in s. 713.78. The license number must be displayed on both sides of the vehicle and must appear in lettering no less than 4 inches tall and in a color contrasting from that of the background.

History.--ss. 5, 11, ch. 90-364; s. 4, ch. 91-429; s. 9, ch. 93-49; s. 539, ch. 97-103; s. 11, ch. 97-248.

493.6405 Sale of motor vehicle, mobile home, or motorboat by a licensee; penalty.--

(1) A Class "E" or Class "EE" licensee shall obtain, prior to sale, written authorization and a negotiable title from the owner or lienholder to sell any repossessed motor vehicle, mobile home, or motorboat.

(2) A Class "E" or Class "EE" licensee shall send the net proceeds from the sale of such repossessed motor vehicle, mobile home, or motorboat to the owner or lienholder, within 20 working days after the licensee executes the documents which permit the transfer of legal ownership to the purchaser.

(3) A person who violates a provision of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--ss. 5, 11, ch. 90-364; s. 4, ch. 91-429.

493.6406 Repossession services school or training facility.--

(1) Any school, training facility, or instructor who offers the training outlined in s. 493.6403(2) for Class "EE" applicants shall, before licensure of such school, training facility, or instructor, file with the department an application accompanied by an application fee in an amount to be determined by rule, not to exceed \$60. The fee shall not be refundable.

(2) The application shall be signed and notarized and shall contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, his or her name, address, and social security or alien registration number.

(b) The street address of the place at which the training is to be conducted.

(c) A copy of the training curriculum and final examination to be administered.

(3) The department shall adopt rules establishing the criteria for approval of schools, training facilities, and instructors.