

TITLE 874 PRIVATE INVESTIGATOR AND SECURITY GUARD LICENSING BOARD

Economic Impact Statement

LSA Document #07-342

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

This proposed rule adds 874 IAC concerning private investigators and security guards to establish application and renewal procedures and implement the requirements of SEA 506, P.L.185-2007, which significantly improves the manner in which state government regulates the private investigator and security guard industries.

Prior to the enactment of SEA 506, P.L.185-2007, the Indiana Professional Licensing Agency (IPLA) issued a "Private Detective Agency" license to both actual private detective agencies as well as to security guard companies. IPLA did not issue individual licenses to private detectives or to security guards. Rather, individuals were issued "Authorized Employee ID Cards" that tied them to a licensed private detective agency. Tying the authorized employees to the licensed agency by which they were employed created an unnecessary work-intensive process for the staff of IPLA. The new law requires the separation of the two professions, private investigator firms and security guard agencies, and also eliminates the requirement to issue Authorized Employee ID Cards, which will significantly improve the way both professions are regulated.

Impact on Small Businesses

1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule:

NAICS 561611	Private Investigator Firms	417
NAICS 561612	Security Guard Agencies	227
	Total	644

The IPLA does not maintain data on licenses issued to small businesses. As of the date of this memo, there are a total of 644 licensees. Because data is not collected regarding business size, we are unable to estimate how many of these licensees are small businesses. Therefore, the exact number of small businesses affected by this rule is currently 644 or less.

Under the statutory provisions in effect prior to the effective date (July 1, 2007) of SEA 506, P.L.185-2007, an average of 101 agency licenses were issued annually, and an average of 272 agency licenses were renewed annually. These averages are expected to continue under the current statutory provisions; however, there is no data available that indicates how many of these licensees may be categorized as small businesses.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.

There will be no annual reporting or administrative costs incurred by small businesses to comply with this rule. Licensees will be required to keep records of their criminal history background checks.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

As a requirement for issuance and renewal of a private investigator firm and security guard agency license, the applicant will need to submit criminal history background checks. These criminal history checks must be obtained from a law enforcement agency, and a nominal fee may be assessed for this service. In addition, applicants are required to submit license certifications for each private investigator or security guard license that they hold in another state. Each state regulatory body may also assess a nominal fee for this service, which the applicant must pay.

Although there may be a nominal fee required to obtain this information, the Board believes that this information is critical to the application process. This information will ensure that potential licensees do not have any criminal convictions or disciplinary history that would affect his or her practice in the state of Indiana and the services he or she may provide to the consumers of Indiana.

Each firm or agency must have a qualifier who meets the experience requirements for obtaining a license. For a sole proprietorship, the owner of the sole proprietorship would be the qualifier. For a partnership, one partner would be the qualifier. For a corporation, one officer would be the qualifier.

The following is provided as an example of the fiscal impact:

Firm A, located in Marion County, applies for a private investigator firm license. Partner 1 is designated as the qualifier. The qualifier would be required to pay:

- \$7 to \$16.32 to the Indiana State Police for a limited criminal history check. \$7 is the fee for a paper application. \$16.32 is the fee for an online search.
- \$10 to the Indiana State Police for a fingerprint search.

\$10 to Marion County for a county background check.

The fee for the check will range from \$27 to \$36.32.

During the period of July 1, 2007, through June 30, 2008, IPLA has issued a total of 631 agency licenses.

The increase in the issuance of agency licenses is not expected to continue at the current annual rate of 631 licenses. The Board expects that the issuance of licenses will remain at the past rate of an average of 101 agency licenses issued per year. IPLA's database indicates that there were a total of 744 active licensed agencies on June 30, 2007, before the effective date of SEA 506. Currently there are 644 active licensees. The Board believes that the total number of licensees will increase to at least 744 by the renewal date of October 1, 2011.

If 101 applicants obtained the required background checks for 101 qualifiers, based upon the example above, the annual cost to the regulated entities would be between \$2,727 and \$3,668 per year.

Approximately 272 licenses are expected to be renewed on an annual basis. License holders will be required to obtain state limited criminal history background checks only as a condition of renewal. Based upon the cost of a background check of between \$7 to \$16.32, the annual cost to regulated entities will be approximately \$1,904 and \$4,439.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; or any other state or federal law.

The Private Investigator and Security Guard Licensing Board is proposing this rule to establish the requirements for licensure and renewal for private investigator firms and security guard agencies as mandated by SEA 506, P.L.185-2007.

The Act differentiates between the two industries. A company that is solely involved in the private investigator industry will be issued a "Private Investigator Firm" license. A company that is solely involved in the security guard industry will be issued a "Security Guard Agency" license. A company involved with both industries will need to obtain both licenses. The Act also eliminated the requirement to issue Authorized Employee ID Cards.

The new law removes some exemptions that prior to the enactment of P.L.185-2007 existed within both industries. The Act exempts certain professions from the need to obtain a Private Investigator Firm license, such as on-duty law enforcement, collection agencies licensed by the Secretary of State, attorneys, and insurance adjusters to name some. The Act also maintains certain exemptions within the security guard industry. However, other exemptions are removed, such as the armored vehicle security industry as this particular area of the industry provides security for hire or reward for banks.

The proposed rule will set out guidelines that will effectively implement the changes enacted by P.L.185-2007. The proposed rule will require an applicant to submit criminal background checks for issuance and renewal of a license. It will also require that a license verification of any other state license held by the applicant be a requirement for consideration for licensure.

The criminal history background check and the verification of out-of-state licenses are critical to the application process and outweigh the nominal fee that may be assessed to obtain these documents. This information will ensure that licensees and any potential licensees do not have any criminal convictions or disciplinary history that would affect his or her practice in the state of Indiana and the services they may provide to the consumers of Indiana.

5. Regulatory flexibility analysis of Alternative Methods.

There were no alternatives examined because these rules are necessary to establish rules for the evaluation of applications for the issuance and renewal of licenses and were also mandated by SEA 506, P.L.185-2007.

6. Conclusion.

This proposed rule will improve the regulation of both professions, private investigators and security guards. The proposed rule will also make the processing and maintenance of the license more effective and efficient for IPLA staff, as well as creating a user friendly application and renewal process for licensees.

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