

Senate Bill No. 741

Passed the Senate September 2, 2009

Secretary of the Senate

Passed the Assembly August 20, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 7574.9 to, and to repeal and add Chapter 11.4 (commencing with Section 7574) of Division 3 of, the Business and Professions Code, relating to security services.

LEGISLATIVE COUNSEL'S DIGEST

SB 741, Maldonado. Proprietary security services.

Existing law, the Proprietary Security Services Act, requires a person who meets the definition of a proprietary private security officer to register with the Department of Consumer Affairs. Existing law requires a proprietary private security officer to complete training in security officer skills within a specified period of time. Existing law authorizes, except as otherwise specified, a registered person to request review by a private security disciplinary review committee, to contest the assessment of fines or to appeal the denial, revocation, or suspension of a registration. Existing law, when certain conditions are met, makes it an infraction to violate various provisions requiring registration, licensure, certification, or other authorization in order to engage in certain businesses or professions.

This bill would revise and recast these provisions by requiring, on and after January 1, 2011, proprietary private security officers and proprietary private security employers, as defined, to register with the department. The bill would require applicants for registration to apply to the department on forms provided by the department and would require these applications to include, among other things, a \$50 fee for officers and a \$75 fee for employers as well as fingerprints for the officer application. The bill would require that, upon approval of an application by the Director of Consumer Affairs, officer and employer applicants be issued a registration card or registration certificate, respectively.

The bill would, on and after July 1, 2011, require registered proprietary private security officers to complete training in security officer skills within 6 months from the date upon which registration is issued, or within 6 months of his or her employment with a proprietary private security employer, as specified. The bill would require registered proprietary private security employers to

maintain specified records regarding the employment of officers and the completion by officers of training in security officer skills. The bill would also require these officers on duty to carry a valid and current registration card or a specified alternative as well as other identification. The bill would authorize the director to issue a citation, which may include an order of abatement or an order to pay an administrative fine, for a violation of these provisions by a registrant or a person without a valid registration who is acting as a proprietary private security officer or employer. The bill would authorize the director to refuse to approve, or to suspend or revoke, a registration if the applicant or registrant has committed specified acts or crimes. The bill would also, when certain conditions are met, make it an infraction to violate the provision prohibiting a person from engaging in the business of a proprietary private security officer without being registered by the department. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 7574.9 is added to the Business and Professions Code, to read:

7574.9. This chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. Chapter 11.4 (commencing with Section 7574) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 11.4. PROPRIETARY SECURITY SERVICES

Article 1. General

7574. This chapter may be cited as the Proprietary Security Services Act.

7574.01. For the purposes of this chapter, the following terms shall have the following meanings:

(a) “Bureau” means the Bureau of Security and Investigative Services.

(b) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(c) “Director” means the Director of Consumer Affairs, unless the context indicates otherwise.

(d) “Person” includes any individual, firm, company, association, organization, partnership, and corporation.

(e) “Proprietary private security employer” means a person who has one or more employees who provide security services for the employer and only for the employer. A person who employs proprietary private security officers pursuant to this chapter at more than one location shall be considered a single employer.

(f) “Proprietary private security officer” means an unarmed individual who is employed exclusively by any one employer whose primary duty is to provide security services for his or her employer, whose services are not contracted to any other entity or person, and who is not exempt pursuant to Section 7582.2, and who meets both of the following criteria:

(1) Is required to wear a distinctive uniform clearly identifying the individual as a security officer.

(2) Is likely to interact with the public while performing his or her duties.

(g) “Registrant” means an individual registered with the bureau under this chapter.

7574.02. The director shall administer and enforce the provisions of this chapter.

7574.03. Every power granted or duty imposed upon the director under this chapter may be exercised or performed by any other officer or employee of the Department of Consumer Affairs as authorized by the director, however, the director shall have the

supervision of and the responsibility for all powers and duties exercised by those officers and employees.

7574.04. The director may, in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and subject to the provisions of Section 159.5, appoint and fix the compensation of inspectors, investigators, and other personnel as may be necessary for the enforcement of this chapter.

7574.05. The director may adopt regulations as necessary for the administration and enforcement of this chapter.

7574.06. (a) All fees and fines collected pursuant to this chapter shall be deposited in the Private Security Services Fund.

(b) All money derived from the registration and regulation of proprietary private security officers and proprietary private security employers registered under this chapter shall be expended exclusively on the registration and regulation of proprietary private security officers and proprietary private security employers.

7574.08. This article shall become operative on January 1, 2011.

Article 2. Registration

7574.10. No person shall engage in the business of a proprietary private security officer unless registered with the department pursuant to this chapter.

7574.11. (a) An applicant seeking registration as a proprietary private security officer shall apply to the department on forms provided by the department.

(b) An application for registration as a proprietary private security officer shall include, but not be limited to, the following:

(1) Submission of fingerprints for submission to the Department of Justice.

(A) The department shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for all proprietary private security officer registration applicants, as defined by subdivision (f) of Section 7574.01, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the

Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(B) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(C) The Department of Justice shall provide a state and federal level response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(D) The department shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a).

(E) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

(2) A fee of fifty dollars (\$50).

(c) Upon approval of an application for registration as a proprietary private security officer by the director, the chief shall cause to be issued to the applicant a registration card in a form approved by the director. A registration card shall be valid for two years from the date of issue.

(d) A person may work as a proprietary private security officer pending receipt of the registration card if he or she has been approved by the director and carries on his or her person a hard copy printout of the bureau's approval from the bureau's Internet Web site and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code.

(e) In the event of the loss or destruction of a registration card, the registrant may apply to the bureau on a form provided by the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a replacement fee of ten dollars (\$10), whereupon the bureau shall issue a replacement of the card.

(f) A registered proprietary private security officer shall apply for renewal biennially with the department on forms provided by the department. The department shall charge a renewal fee of thirty-five dollars (\$35).

7574.12. No person shall engage in the business of a proprietary private security employer unless registered with the department pursuant to this chapter. However, a proprietary private security employer meeting one of the requirements of Section 7574.14 shall be considered exempt from registration.

7574.13. (a) An applicant seeking registration as a proprietary private security employer shall apply to the department on forms provided by the department.

(b) An application for registration as a proprietary private security employer shall include, but not be limited to, a fee of seventy-five dollars (\$75).

(c) Upon approval of an application for registration as a proprietary private security employer by the director, the chief shall cause to be issued to the applicant a registration certificate in a form approved by the director. A registration certificate shall be valid for two years from the date of issue.

(d) A registered proprietary private security employer shall apply for renewal biennially with the department on forms provided by the department. The department shall charge a renewal fee of thirty-five dollars (\$35).

7574.14. This chapter shall not apply to the following:

(a) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided the part-time employment does not exceed 50 hours in any calendar month.

(b) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(c) A charitable philanthropic society or association incorporated under the laws of this state that is organized and duly maintained for the public good and not for private profit.

(d) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed

by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(e) An attorney at law in performing his or her duties as an attorney at law.

(f) A collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(g) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(h) Any bank subject to the jurisdiction of the Commissioner of Financial Institutions of the State of California under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of Currency of the United States.

(i) A person engaged solely in the business of securing information about persons or property from public records.

(j) A peace officer of this state or a political subdivision thereof while the peace officer is employed by a private employer to engage in off-duty employment in accordance with Section 1126 of the Government Code. However, nothing herein shall exempt such a peace officer who either contracts for his or her services or the services of others as a private patrol operator or contracts for his or her services as or is employed as an armed private security officer. For purposes of this subdivision, “armed security officer” means an individual who carries or uses a firearm in the course and scope of that contract or employment.

(k) A retired peace officer of the state or political subdivision thereof when the retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7583.5. This officer may not carry a loaded or concealed

firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code. However, nothing herein shall exempt the retired peace officer who contracts for his or her services or the services of others as a private patrol operator.

(l) A licensed insurance adjuster in performing his or her duties within the scope of his or her license as an insurance adjuster.

(m) Any savings association subject to the jurisdiction of the Commissioner of Financial Institutions or the Office of Thrift Supervision.

(n) Any secured creditor engaged in the repossession of the creditor's collateral and any lessor engaged in the repossession of leased property in which it claims an interest.

(o) A peace officer in his or her official police uniform acting in accordance with subdivisions (c) and (d) of Section 70 of the Penal Code.

(p) An unarmed, uniformed security person employed exclusively and regularly by a motion picture studio facility employer who does not provide contract security services for other entities or persons in connection with the affairs of that employer only and where there exists an employer-employee relationship if that person at no time carries or uses any deadly weapon, as defined in subdivision (a), in the performance of his or her duties, which may include, but are not limited to, the following business purposes:

(1) The screening and monitoring access of employees of the same employer.

(2) The screening and monitoring access of prearranged and preauthorized invited guests.

(3) The screening and monitoring of vendors and suppliers.

(4) Patrolling the private property facilities for the safety and welfare of all who have been legitimately authorized to have access to the facility.

(q) An armored contract carrier operating armored vehicles pursuant to the authority of the Department of the California Highway Patrol or the Public Utilities Commission, or an armored vehicle guard employed by an armored contract carrier.

7574.15. (a) The director may refuse to approve a proprietary private security officer or proprietary private security employer registration pursuant to this chapter to a person who has had any license or registration revoked, or whose license or registration is under suspension, or who has failed to renew his or her license or registration while it was under suspension.

(b) The director may refuse to issue a proprietary private security officer or proprietary private security employer registration to a person who has committed any act that, if committed by a registrant, would be grounds for refusing to issue a registration, or for the suspension or revocation of a registration issued pursuant to this chapter.

(c) The director may refuse to approve a proprietary private security officer registration pursuant to Section 7574.11 to a person who has committed any act or crime constituting grounds for denial under Section 480.

7574.16. This article shall become operative on January 1, 2011.

Article 3. Training

7574.18. (a) Except for a person who has completed the course of training required by Section 7583.45, a person registered and hired as a proprietary private security officer shall complete training in security officer skills within six months from the date upon which registration is issued, or within six months of his or her employment with a proprietary private security employer.

(b) (1) Except as provided in paragraph (2), a course provider shall issue a certificate to a proprietary private security officer upon satisfactory completion of a required course, conducted in accordance with the department's requirements.

(2) If a proprietary private security employer administers a course of training pursuant to this section, that proprietary private security employer shall issue a certificate to a proprietary private security officer for the completion of training in security officer skills that each proprietary private security officer is required to complete, as determined by the department, such as, but not limited to, power-to-arrest training. However, the employer shall not be required to provide a certificate for training courses provided pursuant to a curriculum adopted by the department that are specific

to that employer's business and where the subject of training is not specifically required by the department.

(c) An employer of a proprietary private security officer may provide training programs and courses in addition to the training required in this section.

(d) The department shall develop and establish by regulation a standard course and curriculum, which shall include a minimum number of hours of instruction, for the skills training required by subdivision (a) to promote and protect the safety of persons and the security of property. For this purpose, the regulations adopted by the department pursuant to Section 7574.5, as added by Chapter 721 of the Statutes of 2007, are continued in existence, and shall be amended by the department as necessary.

(e) The course of training required by subdivision (a) may be administered, tested, and certified by any proprietary private security employer, organization, or school approved by the department. The department may approve any proprietary private security employer, organization, or school to teach the course.

(f) (1) A proprietary private security employer shall annually provide each employee registered pursuant to this chapter with specifically dedicated review or practice of security officer skills prescribed in the training required in this section. The bureau shall adopt and approve by regulation the minimum number of hours required for annual review.

(2) A proprietary private security employer shall maintain at the principal place of business or branch office a record verifying completion of the review or practice training for a period of not less than two years. The records shall be available for inspection by the department upon request.

(g) This section does not apply to a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who has successfully completed a course of study in the exercise of the power to arrest approved by the Commission on Peace Officer Standards and Training. This section does not apply to armored vehicle guards.

7574.19. This article shall become operative on July 1, 2011.

Article 4. Conduct of Business

7574.20. No proprietary private security employer shall sublet proprietary private security officers employed by them to any other person, business, or entity. Nothing in this section shall be construed to prohibit an employer from transferring employees from one location to another or from one subsidiary to another.

7574.21. A person registered as a proprietary private security employer shall do the following with respect to proprietary private security officers in his or her employment:

(a) Maintain an accurate and current record of the name, address, commencing date of employment, and position of each proprietary private security officer, and the date of termination of employment when a proprietary private security officer is terminated.

(b) Maintain an accurate and current record of proof of completion by each proprietary private security officer of the training described in Section 7574.5.

7574.22. A person registered as a proprietary private security officer shall carry on his or her person, while on duty, a valid and current proprietary private security officer's registration card or a hard copy printout of the bureau's approval from the bureau's Internet Web site and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code.

7574.23. This article shall become operative on January 1, 2011.

Article 5. Enforcement and Disciplinary Proceedings

7574.30. (a) Pursuant to Section 125.9, the director may issue a citation, which may include an order of abatement or an order to pay an administrative fine, for a violation of this chapter or any regulations adopted pursuant to this chapter.

(b) Pursuant to Section 148, the director may issue an administrative citation, which may include an order of abatement or an order to pay an administrative fine, to an unregistered person who is acting as a proprietary private security officer without a valid registration or to a person who is acting as a proprietary private security employer without a valid registration.

(c) The department shall establish by regulation a schedule of fines for violations of this chapter, or any regulations adopted pursuant to this chapter.

7574.31. The director may suspend or revoke a proprietary private security officer registration issued pursuant to Section 7574.11 if the registrant has committed any act or crime constituting grounds for suspension or revocation under Section 490.

7574.32. (a) Notwithstanding any other provision of law, a violation of Section 7574.10 is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of Section 7574.10 if the defendant has had his or her registration previously revoked or suspended.

(c) Notwithstanding any other provision of law, a violation of Section 7574.10, which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid registration pursuant to this chapter.

7574.33. (a) A person registered with the department under this chapter may request a review by a private security disciplinary review committee, as established in Section 7581.1, to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspension of a registration unless the denial, revocation, or suspension is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

A request for a review shall be by written notice to the department within 30 days of the issuance of the citation and assessment, denial, revocation, or suspension.

Following a review by a disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.

If the appellant disagrees with the decision made by a disciplinary review committee, he or she may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A request for a hearing following a decision by a disciplinary review committee shall be by written notice to the department within 30 days following notice of the committee's decision.

If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

(b) Notwithstanding subdivision (a), where a hearing is held under this chapter to determine whether an application for registration should be granted, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all of the powers granted therein.

7574.34. This article shall become operative on January 1, 2011.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor