

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Private Employment Agency Act is amended by changing Sections 1.5, 4, and 5 and by renumbering and changing Section 11 as follows:

(225 ILCS 515/1.1) (was 225 ILCS 515/11)

Sec. 1.1 ~~11~~. Definitions. As ~~When~~ used in this Act, unless the context indicates otherwise:

"Employment ~~The term "employment~~ agency" means any person engaged for gain or profit in the business of placing, referring, securing, or attempting to secure employment for persons seeking employment, or in finding employees for employers. However, "employment ~~the term "employment~~ agency" does ~~shall~~ not include any person engaged in the business of consulting or recruiting, and who in the course of such business is compensated solely by any employer to identify, appraise, or recommend an individual or individuals who are at least 18 years of age or who hold a high school diploma for consideration for a position, provided that in no instance is the individual who is identified, appraised, or recommended for consideration for such position charged a fee directly or indirectly in connection with such identification, appraisal,

or recommendation, or for preparation of any resume, or on account of any other personal service performed by the person engaged in the business of consulting or recruiting; but this exclusion is not applicable to theatrical employment agencies or domestic service employment agencies.

"Employer" ~~The term "employer"~~ means any person employing or seeking to employ any person for hire.

"Employee" ~~The term "employee"~~ means any person performing or seeking to perform work or services of any kind or character whatsoever for hire.

"Person" ~~The term "person"~~ means any person, firm, association, partnership, limited liability company, association, corporation, or other legal entity or its legal representatives, agents, or assigns.

"Employment counselor" means an employee of an employment agency who interviews, counsels, or advises applicants or employers or both on employment or allied problems, or who makes or arranges contracts or contacts between employers and employees. "Employment counselor" includes an employee who solicits orders for employees from prospective employers. The term "employment counsellor" means employees of any employment agency who interview, counsel, or advise applicants or employers or both on employment or allied problems, or who make or arrange contracts or contacts between employers and employees. The term "employment counsellor" includes employees who solicit orders for employees from prospective employers.

"Acceptance" ~~The term "acceptance"~~ means a mutual agreement, verbal or written, between employee and employer as to starting salary, position, and time and place of employment.

"Applicant" ~~The term "applicant"~~ means any person who uses the services of an employment agency to secure employment for himself.

"Department" ~~The term "department"~~ means the Department of Labor.

"Director" ~~The term "Director"~~ means the Director of ~~the Department of~~ Labor.

"Fee" ~~The term "fee"~~ means money or a promise to pay money. "Fee" ~~The term "fee"~~ also means ~~and includes~~ the excess of money received by any such licensee over what he or she has paid for transportation, transfer of baggage, or lodging, for any applicant for employment. "Fee" ~~The term "fee"~~ also means ~~and includes~~ the difference between the amount of money received by any person, who furnishes employees or performers for any entertainment, exhibition or performance, and the amount paid by the person receiving the amount of money to the employees or performers whom he or she hires to give such entertainment, exhibition or performance.

"Privilege" ~~The term "privilege"~~ means ~~and includes~~ the furnishing of food, supplies, tools, or shelter to contract laborers, commonly known as commissary privileges.

"Theatrical" ~~The term "theatrical employment agency"~~ means ~~and includes~~ the business of conducting an agency, bureau,

office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for persons who want employment in the following occupations: circus, vaudeville, theatrical and other entertainment, ~~or~~ exhibitions, or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street, or elsewhere.

"Theatrical ~~The term "theatrical~~ engagement" means ~~and includes~~ any engagement or employment of a person as an actor, performer, or entertainer, in a circus, vaudeville, theatrical or any other entertainment, exhibition, or performance.

"Emergency ~~The term "emergency~~ engagement" means ~~and includes~~ any engagement that is to be performed within 24 hours of the time such application was made by an employer.

"Domestic ~~The term "domestic~~ service" means household work in the home of the employer and includes, but is not limited to, work as a maid, cook, butler, gardener, chauffeur, housekeeper, or babysitter.

(Source: P.A. 99-422, eff. 1-1-16.)

(225 ILCS 515/1.5)

Sec. 1.5. Application for license; application fees; disclosure of fees, charges, and commissions; investigation of applicants; renewal of license; changes in structure and management of licensees.

(a) The applicant for a license shall furnish to the Department the following:

(1) An affidavit stating that he has never been a party to any fraud, has no jail or prison record, belongs to no subversive societies, is of good moral character, has business integrity and is financially responsible. In determining moral character and qualification for licensing, the Department may take into consideration any criminal conviction of the applicant, but such a conviction shall not operate as a bar to licensing.

(2) A completed application, on a form provided by the Department, that includes the name of the person, corporation, or other entity applying for the license; the location at which the person intends to conduct business; the type of employment services provided; and a disclosure of any other pecuniary interests held by the entity applying for the license.

(3) An application fee. The Director shall adopt rules to establish a schedule of fees for application for a license. The application fee is nonrefundable.

(4) A schedule of fees, charges, and commissions, which the employment agency intends to charge and collect for its services, together with a copy of all forms and contracts that the agency intends to be used in the operation of the agency. Such schedule of fees, charges, and commissions may thereafter be changed by filing with the Department an

amended or supplemental schedule showing such changes at least 15 days before such change is to become effective. Any change in forms or contracts must be filed with the Department of Labor at least 15 days before such change is going to become effective. Such schedule of fees to be charged shall be posted in a conspicuous place in each room of such an agency where applicants are interviewed, in not less than 30 point bold-faced type. Agencies which deal exclusively with employer paid fees shall not be required to post said schedule of fees. The Department may by rule require contracts to contain definitions of terms used in such contracts to eliminate ambiguity.

It shall be unlawful for any employment agency to charge, collect, or receive a greater compensation for any service performed by it than is specified in the schedule filed with the Department. It shall be unlawful for any employment agency to collect or attempt to collect any compensation for any service not specified in the schedule of fees filed with the Department.

(b) Upon the filing of such application and supporting documentation, the Department shall cause an investigation to be made as to the character and the business integrity and financial responsibility of the applicant and those mentioned in the application, ~~and as to the fitness of the premises to be used.~~ The application shall be rejected if the Department finds that any of the persons named in the application fail to

demonstrate good moral character, business integrity and financial responsibility, ~~if the premises are unfit~~, or if there is any good and sufficient reason within the meaning and purpose of this Act for rejecting such application. Unless the application shall be rejected for one or more of the causes specified above, it shall be granted. A detailed report of such investigation and the action taken thereon shall be made in writing, signed by the investigator, and become a part of the official records of the Department. When, at the time of filing the application, the applicant or any person mentioned in the application is employed as an employment counselor ~~counselor~~ by a licensed employment agency in this State, the Department shall notify the agency of this fact.

(c) Once issued, a license may be renewed annually by furnishing the Department the required application fee, a letter from a surety stating that a sufficient bond is in force, and other documents necessary to complete the renewal. Failure to renew a license at its expiration date shall cause the license to lapse and it may only be reinstated by a new application.

(d) No license shall be transferrable, but a licensee may, with the approval of the Department, make changes in the structure of the business entity operating the agency, but no licensee shall permit any person not mentioned in the original application for a license to become a partner if such agency is a partnership, or an officer of the corporation if such agency

is a corporation, unless the written consent of the Department of Labor shall first be obtained. Such consent may be withheld for any reason for which an original application might have been rejected, if the person in question had been mentioned therein. No such change shall be permitted until the written consent of the surety or sureties on the bond required to be filed by Section 2 of this Act, to such change, is filed with the original bond. The Department shall be notified immediately of any change in the management of the agency so that at all times the identity of the person charged with the general management of the agency shall be known by the Department. A licensee may promote persons within its agency or change the titles and duties of existing agency personnel, other than the general manager, without notice to the Department.

(Source: P.A. 99-422, eff. 1-1-16.)

(225 ILCS 515/4) (from Ch. 111, par. 904)

Sec. 4. It shall be unlawful for any person to act as an employment counselor ~~counsellor~~, or to advertise, or assume to act as an employment counselor ~~counsellor~~, without first obtaining a license as such employment counselor ~~counsellor~~, from the Department of Labor. It shall be unlawful for any person to engage in, operate or carry on the business of an employment agency unless each employee of such agency, who furnishes information to any person as to where employees or employment may be obtained or found, is a licensed employment

counselor ~~counsellor~~. Where the license to conduct an employment agency is issued to a corporation and any officer of the corporation performs any function defined as those to be performed by an employment counselor ~~counsellor~~, he shall be considered an employee of the corporation and shall be required to secure a license as an employment counselor ~~counsellor~~.

Every person who desires to obtain a license, as employment counselor ~~counsellor~~, shall apply therefor to the Department of Labor, in writing, upon application blanks prepared and furnished by the Department of Labor. Each applicant shall set out in said application blanks such information as the Department may require, and said applications shall be accompanied by a permit fee of \$50 and the affidavits of two persons of business or professional integrity. Such affiants shall state that they have known the applicant for a period of two years and that the applicant is a person of good moral character.

The Department shall issue to such person a temporary permit to act as an employment counselor ~~counsellor~~ which permit shall be valid for 90 days pending examination of such person when:

(a) the applicant is employed by an employment agency, and the application states the name and address of such employment agency; and

(b) the applicant declares under oath his intention that he will complete the examination for the employment agency

counselor's ~~counsellor's~~ license on a date scheduled for such examination by the Department of Labor within 60 days of the date of application.

Commencing January 1, 1974 the Department shall not issue a license to act as an employment counselor ~~counsellor~~ to any person not previously licensed as such employment counselor ~~counsellor~~ on such date unless he has taken and successfully completed a written examination based upon this Act. The Department of Labor shall conduct such examination at such times and places as it shall determine, but not less than once each month. The examination shall test the applicant's knowledge of the employment agency law, pertinent labor laws and laws against discrimination in employment. Upon successful completion of the written examination and providing the requirements of this Section are met, the Department shall issue a license to act as an employment counselor ~~counsellor~~ and no additional licensing fee shall be required.

In the event of failure to appear for the examination as scheduled or if the applicant appears and fails to pass, such person shall pay a fee of \$10 for rescheduling at a later date. No person may be rescheduled for examination more than twice in any calendar year except in the event that he has failed to appear for examination and such failure to appear was not willful but was the result of illness of the applicant or a member of his immediate family or of some other emergency.

The Department of Labor may require such other proof as to

the honesty, truthfulness and integrity of the applicant, as may be deemed necessary and desirable. If the applicant is shown to be honest, truthful and of known integrity, and has successfully completed the written examination required under this Section, the Department of Labor shall issue a license, which license shall set out the true name and address of the applicant, the name of the Employment agency by whom he is employed, and such additional information as the Department may prescribe. The license issued shall authorize the person named therein to act as an employment counselor ~~counsellor~~. Such license may be renewed at the end of each year by the payment of a renewal fee of \$25.

The applicant must furnish satisfactory proof to the Department that he has never been a party to any fraud, has no jail record, belongs to no subversive societies and is of good moral character and business integrity.

In determining honesty, truthfulness, integrity, moral character and business integrity under this Section, the Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate as a bar to licensing.

The license of the employment counselor ~~counsellor~~ shall be mailed to the employment agency by which he is employed, and shall be kept in the office of such agency and produced for inspection by any agent of the Department of Labor, at any time during business hours.

The Department of Labor, upon its own motion, or upon the filing of a verified complaint with the department, by any person, accompanied by such evidence, documentary or otherwise, as makes out a prima facie case that the licensee is unworthy to hold a license, shall notify the employment counselor ~~counsellor~~ in writing that the question of his honesty, truthfulness, integrity, moral character, business integrity or felony conviction is to be reopened and determined, de novo. This notice shall be served by delivering a copy to the licensed person, or by mailing a copy to him, by registered mail, at his last known business address. Thereupon, the Department of Labor shall require further proof of the licensee's honesty, truthfulness, integrity, moral character and business integrity, and if the proof is not satisfactory to the Department of Labor, it shall revoke his license.

If any employment counselor ~~counsellor~~ is discharged or terminates his employment with the agency by which he is employed, such agency shall immediately deliver, or forward by mail, the employment counselor's ~~counsellor's~~ license, to the Department of Labor, together with the reasons for his discharge, if he was discharged. Failure to state that the employment counselor ~~counsellor~~ was discharged will be conclusively presumed to indicate that he terminated his services voluntarily. Thereafter, it shall be unlawful for the employment counselor ~~counsellor~~ to exercise any rights or privileges under such license, unless the Department of Labor

transfers his license to another employment agency.

Each employment counselor ~~counsellor~~ shall notify the Department of Labor of any change in his residence address. Failure to give such notice shall automatically work a revocation of his license.

The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

Any person who violates any provisions of this section or who testifies falsely as to any matter required by the provisions of this section or of this Act, is guilty of a Class B misdemeanor.

(Source: P.A. 97-813, eff. 7-13-12.)

(225 ILCS 515/5) (from Ch. 111, par. 905)

Sec. 5. No such licensee shall charge a registration fee without having first obtained a permit to charge such registration fee from the Department of Labor. Any such licensee desiring to charge a registration fee shall make application in writing to the Department of Labor, and shall set out in the application the type of applicants from whom they intend to accept a registration fee, the amount of the fee

to be charged, and shall furnish any other information on the subject that the Department of Labor may deem necessary to enable it to determine whether the agency's business methods and past record entitle the agency to a permit.

It is the duty of the Department of Labor to make an investigation, upon receipt of the application, as to the truthfulness of the application and the necessity of the charge of a registration fee; and if it is shown that the agency's method of doing business is of such a nature that a permit to charge a registration fee is necessary, and that the agency's record has been reasonable and fair, then the Department of Labor shall grant a permit to such agency. Such permit shall remain in force until revoked for cause. No permit shall be granted until after 10 days from the date of filing of the application.

When a permit is granted, such licensed person may charge a registration fee not to exceed \$4. In all such cases a complete record of all such registration fees and references of applicants shall be kept on file, which record shall, during all business hours, be open for the inspection of the Department of Labor. It is the duty of such licensee to communicate in writing with at least 2 of the persons mentioned as reference by every applicant from whom a registration fee is accepted. Failure on the part of a licensee to make such investigation shall be deemed cause to revoke the permit to charge a registration fee. For such registration fee a receipt

shall be given to the applicant for employees or employment, and shall state therein the name of such applicant, date and amount of payment, the character of position or employee applied for, and the name and address of such agency. If no position has been furnished by the licensed agency to the applicant, then the registration fee shall be returned to the applicant on demand after 30 days and within 6 months from the date of receipt thereof, less the amount that has been actually expended by the licensee in checking the references of the applicant, and an itemized account of such expenditures shall be presented to the applicant on request at the time of returning the unused portion of such registration fee.

Any such permit granted by the Department of Labor may be revoked by it upon due notice to the holder of said permit and due cause shown and hearing thereon.

No such licensee shall, as a condition to registering or obtaining employment for such applicant, require such applicant to subscribe to any publication or to any postal card service, or advertisement, or exact any other fees, compensation or reward, (except that in the case of applicants for positions paying salaries of \$5,000 or more per annum, where the agency has secured from the Department of Labor a permit to furnish a letter service in accordance with regulations of the department governing the furnishing of such service, a special fee not to exceed \$250, to be credited on the fee charged for any placement resulting from such letter

service, may be charged for furnishing such letter service) other than the aforesaid registration fee and a further fee, called a placement fee, the amount of which shall be agreed upon between such applicant and such licensee to be payable at such time as may be agreed upon in writing. The employment agency shall furnish to each applicant a copy of any contract or any form he signs with the agency regarding the method of payment of the placement or employment service fee. Such contract or form shall contain the name and address of such agency, and such other information as the Department of Labor may deem proper. The contract or form or copy thereof furnished the applicant must state immediately above, below or close to the place provided for the signature of the applicant that he has received a copy of the contract or form and his signature shall acknowledge receipt thereof. The placement or employment service fee shall not be received by such licensee before the applicant has accepted a position tendered by the employer. A copy of each contract or other form to which the applicant becomes a party with the licensee shall be given to the applicant by the licensee at the time of executing such contract or document and on any such form on which the word acceptance appears, and such contract or other form shall have the definition of acceptance as defined by this Act printed in not less than 10 point type immediately following the word acceptance. In the event the position so tendered is not accepted by or given to such applicant, the licensee shall

refund all fees paid other than the registration fee and special fee aforesaid, within 3 days of demand therefor. The fee charged for placing an applicant in domestic service shall be a single fee for each placement and shall be based upon the applicant's compensation or salary for a period not to exceed one year.

No such licensee shall send out any applicant for employment unless the licensee has a bona fide job order for such employment and the job order is valid in accordance with the renewal requirements of Section 3 of this Act. If no position of the kind applied for was open at the place where the applicant was directed, then the licensee shall refund to such applicant on demand any sum paid or expended by the applicant for transportation in going to and returning from the place, and all fees paid by the applicant. However, in the event a substitute position is taken, the fee to be charged shall be computed on the salary agreed upon for such position.

In addition to the receipt herein provided to be given for a registration fee, it shall be the duty of such licensee to give to every applicant for employment or employees from whom other fee, or fees shall be received, an additional receipt in which shall be stated the name of the applicant, the amount paid and the date of payment. All such receipts shall be in duplicate, numbered consecutively, shall contain the name and address of such agency, and such other information as the Department of Labor may deem proper. The duplicate receipt

shall be kept on file in the agency for at least one year.

Every such licensee shall give to every applicant, who is sent out for a job or for an interview with a prospective employer, a card or printed paper or letter of introduction which shall be called a "referral slip" containing the name of the applicant, the name and address of the employer to whom the applicant is sent for employment, the name and address of the agency, the name of the person referring the applicant, and the probable duration of the work, whether temporary or permanent. The referral slip shall contain a blank space in which the employment counselor ~~counsellor~~ shall insert and specify in a prominent and legible manner whether the employment service fee is to be paid by the applicant or by the employer, or in the case of a split-fee, the percentage of the fee to be paid by the applicant and the percentage of the fee to be paid by the employer, or shall state whether the fee is to be negotiable between the employer and the employee. A duplicate of all such referral slips shall be kept on file in the agency for a period of one year. In the event that the applicant is referred to a job or to a prospective employer by telephone ~~or telegraph~~, the referral slip shall be mailed to the applicant and to the prospective employer before the close of the business day on which the telephoned ~~or telegraphed~~ referral was given. No person shall be sent out for a job or to interview a prospective employer unless he has been personally interviewed by the agency or has corresponded with the agency with the

purpose of securing employment.

If the employer pays the fee, and the employee fails to remain in the position for a period of 30 days, such licensee shall refund to the employer all fees, less an amount equal to 25% of the total salary or wages paid such employee during the period of such employment, within 3 days after the licensed person has been notified of the employee's failure to remain in the employment, provided such 25% does not exceed the amount charged for a permanent position of like nature.

If the employee pays the fee and is discharged at any time within 30 days for any reason other than intoxication, dishonesty, unexcused tardiness, unexcused absenteeism or insubordination, or otherwise fails to remain in the position for a period of 30 days, through ~~thru~~ no fault of his own, such licensee shall refund to the employee all fees less an amount equal to 25% of the total salary or wages paid such employee during the period of such employment within 3 days of the time such licensee has been notified of the employee's failure to remain in the employment, provided the 25% does not exceed the charge for a permanent position of like nature. All refunds shall be in cash or negotiable check.

If the employee has promised his prospective employer to report to work at a definite time and place and then fails to report to work, such circumstances shall be considered prima facie evidence that the employee has accepted the employment offered.

Where a dispute concerning a fee exists, the department may conduct a hearing to determine all facts concerning the dispute and shall after such hearing make such recommendations concerning such dispute as shall be reasonable.

Every such licensee shall post in a conspicuous place in the main room of the agency sections of this Act as required by the Department of Labor, to be supplied by the Department of Labor, and shall also post his license in the main room of the agency.

Every such licensee shall furnish the Department of Labor, under rules to be prescribed by such Department, annual statements showing the number and character of placements made. (Source: P.A. 97-813, eff. 7-13-12.)

(225 ILCS 515/13 rep.)

Section 10. The Private Employment Agency Act is amended by repealing Section 13.

Section 99. Effective date. This Act takes effect upon becoming law.