

a. With the consent of the governing body, have the matter finally resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the local government and the public utility. If the parties are unable to agree on an arbitrator, the matter shall be resolved by a three-person arbitration panel made up of one arbitrator selected by the local government, one arbitrator selected by the public utility, and one arbitrator selected by the other two arbitrators. The cost and expense of a single arbitrator shall be borne equally by the local government and the public utility. If a three-person arbitration panel is selected, each party shall bear the expense of its own arbitrator and the parties shall jointly and equally bear the cost and expense of the third arbitrator, and of the arbitration. Each party to the arbitration shall pay its own costs, disbursements, and attorney fees.

b. Bring an action in district court to review a decision of the governing body made under this section.

Sec. 8. NEW SECTION. 480A.6 FRANCHISE ORDINANCE NOT SUPERSEDED.

This chapter does not modify or supersede the rights and obligations of a local government and the public utility established by the terms of any existing or future franchise granted, approved, and accepted pursuant to section 364.2, subsection 4. A city which collects a city franchise fee from an entity pursuant to section 364.2, subsection 4, under an existing or future franchise, shall not also collect a fee from that entity under section 480A.3.

Sec. 9. EFFECTIVE DATE. This Act applies retroactively to January 1, 1998, and supercedes the provisions of any ordinances contrary to this Act in effect on or after that date.

Approved April 23, 1998

---

## CHAPTER 1149

### BAIL ENFORCEMENT BUSINESSES, PRIVATE INVESTIGATIVE AGENCIES AND SECURITY AGENTS

S.F. 2374

**AN ACT** providing for the regulation of bail enforcement businesses and their agents, limiting their actions, establishing fees, eliminating temporary county-issued identification for private security agents and investigators, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 80A.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Bail enforcement agent" means a person engaged in the bail enforcement business, including licensees and persons engaged in the bail enforcement business whose principal place of business is in a state other than Iowa.

NEW SUBSECTION. 0B. "Bail enforcement business" means the business of taking or attempting to take into custody the principal on a bail bond issued or a deposit filed in relation to a criminal proceeding to assure the presence of the defendant at trial, but does not include such actions that are undertaken by a peace officer or a law enforcement officer in the course of the officer's official duties.

NEW SUBSECTION. 0C. "Chief law enforcement officer" means the county sheriff, chief of police, or other chief law enforcement officer in the local governmental unit where a defendant is located.

NEW SUBSECTION. 1A. "Defendant" means the principal on a bail bond issued or deposit filed in relation to a criminal proceeding in order to assure the presence of the defendant at trial.

Sec. 2. Section 80A.3, Code 1997, is amended to read as follows:

80A.3 LICENSE REQUIRED.

1. A person shall not operate a bail enforcement business, private investigation business, or private security business, or otherwise employ persons in the operation of such a business located within this state unless the person is licensed by the commissioner in accordance with this chapter.

2. A license issued under this chapter expires two years from the date issued.

Sec. 3. NEW SECTION. 80A.3A NOTIFICATION OF AND REGISTRATION WITH LOCAL LAW ENFORCEMENT.

1. A bail enforcement agent employed by a licensee shall not take or attempt to take into custody the principal on a bail bond without notifying the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present. The bail enforcement agent shall disclose the location where the defendant is believed to be and the bail enforcement agent's intended actions.

2. A person or employee of a person who operates a bail enforcement business in a state other than Iowa and who enters Iowa in pursuit of a defendant who has violated the conditions of a bail bond issued in a state other than Iowa or has otherwise violated conditions of bail imposed by a court in a state other than Iowa shall not take or attempt to take the defendant into custody without first registering with the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present.

a. Registration shall require presentation of the following documents:

(1) A license to operate a bail enforcement business in the state of origin, if the state licenses such businesses. Otherwise, the person or employee shall present other documentation relating to the location of the principal place of business of the bail enforcement business.

(2) The bail bond, order from the local prosecuting authority in the state of origin, or other documents relating to the authority of the person under the laws of the state of origin to pursue the defendant.

(3) A copy of any bond for liability for actions of the person or employee.

b. A bail enforcement agent who registers with the chief law enforcement officer of the local governmental subdivision in accordance with this section and complies with requirements, other than licensure, for acts by a bail enforcement agent within this state, including the limitations imposed by sections 811.8 and 811.12, shall not be subject to civil liability in this state other than as prescribed in this chapter, notwithstanding any other provision under the Code or common law.

Sec. 4. Section 80A.5, Code 1997, is amended to read as follows:

80A.5 LICENSEE FEE.

1. An applicant for a license shall deposit with each application the fee for the license.

2. If the application is approved the deposited amount shall be applied on the license fee. If the application is disapproved, the deposited amount shall be refunded to the applicant.

3. The fee for a two-year license for a bail enforcement business, a private investigative agency, and or a private security agency license is one hundred dollars.

Sec. 5. Section 80A.6, Code 1997, is amended to read as follows:

80A.6 DISPLAY OF LICENSE.

A ~~private investigation agency and private security agency licensee~~ shall conspicuously display the license in the principal place of business of the agency or business.

Sec. 6. Section 80A.7, Code 1997, is amended to read as follows:

## 80A.7 IDENTIFICATION CARDS.

1. The department shall issue to each licensee and to each employee of the licensee an identification card in a form approved by the commissioner. The application for a permanent identification card shall include a temporary identification card valid for fourteen days from the date of receipt of the application by the applicant.

2. The fee for each identification card is ten dollars.

3. It is unlawful for an agency licensed under this chapter to employ a person to act in the bail enforcement business, private investigation business, or private security business unless the person has in the person's immediate possession an identification card issued under this section.

4. The licensee is responsible for the use of identification cards by the licensee's employees and shall return an employee's card to the department upon termination of the employee's service. Identification cards remain the property of the department. ~~The fee for each card is ten dollars.~~

~~A county sheriff may issue temporary identification cards valid for fourteen days to a person employed by an agency licensed as a private security business or private investigation business on a temporary basis in the county. The fee for each card is five dollars. The form of the temporary identification cards shall be approved by the commissioner.~~

Sec. 7. Section 80A.9, Code 1997, is amended to read as follows:

## 80A.9 BADGES — UNIFORMS.

1. A licensee or an employee of a licensee shall not use a badge in connection with the activities of the licensee's business unless the badge has been prescribed or approved by the commissioner.

2. A licensee or an employee of a licensee shall not use an identification card other than the card issued by the department or make a statement with the intent to give the impression that the licensee or employee is a peace officer.

3. A uniform worn by a licensee or employee of a licensee shall conform with rules adopted by the commissioner.

4. A bail enforcement agent other than a licensee shall not do any of the following:

a. Use a badge or identification card other than one which is in accordance with the laws of the state of origin.

b. Wear a uniform or make a statement that gives the impression that the agent is a peace officer.

Sec. 8. Section 80A.10, Code 1997, is amended to read as follows:

## 80A.10 LICENSEE'S BOND.

1. A license shall not be issued unless the applicant files with the department a surety bond, ~~in an a minimum~~ amount of five as follows:

a. Five thousand dollars in the case of an agency licensed to conduct only a bail enforcement business, private security business, or a private investigation business, ~~or in the amount of ten.~~

b. Ten thousand dollars in the case of an agency licensed to conduct both more than one type of business licensed under this chapter.

2. The bond shall be issued by a surety company authorized to do business in this state and shall be conditioned on the faithful, lawful, and honest conduct of the applicant and those employed by the applicant in carrying on the business licensed.

3. The bond shall provide that a person injured by a breach of the conditions of the bond may bring an action on the bond to recover legal damages suffered by reason of the breach. However, the aggregate liability of the surety for all damages shall not exceed the amount of the bond.

4. Bonds issued and filed with the department shall remain in force and effect until the surety has terminated future liability by a written thirty days' notice to the department.

Sec. 9. Section 80A.10A, Code 1997, is amended to read as follows:

80A.10A LICENSEE'S PROOF OF FINANCIAL RESPONSIBILITY.

A Notwithstanding the minimum bond amount that must be filed in accordance with section 80A.10, a license shall not be issued unless the applicant furnishes proof acceptable to the commissioner of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings occurring subsequent to the effective date of the proof, arising out of the ownership and operation of a private security business, ~~or a private investigation business,~~ or bail enforcement business.

Sec. 10. Section 80A.16, Code 1997, is amended to read as follows:

80A.16 PENALTIES.

1. A person who violates any of the provisions of this chapter where no other penalty is provided is guilty of a simple misdemeanor.

2. A person who ~~makes~~ does any of the following is guilty of a fraudulent practice:

a. Makes a false statement or representation in an application or statement filed with the commissioner, as required by this chapter, ~~or a person who falsely.~~

b. Falsely states, or represents, or fails to disclose as required by this chapter, that the person has been or is a private investigator, ~~or private security agent,~~ or advertises as such is guilty of a fraudulent practice bail enforcement agent.

c. Falsely advertises that the person is a licensed private investigator, private security agent, or bail enforcement agent.

3. A person who is subject to the licensing requirements of this chapter and who engages in a private investigation or private security business as defined in this chapter, without possessing a current valid license as provided by this chapter, is guilty of a serious misdemeanor.

4. A person who is subject to the licensing requirements of this chapter for a bail enforcement business or bail enforcement agent, and who operates a bail enforcement business or who acts as a bail enforcement agent for a bail enforcement business, without possessing a current valid license, is guilty of a class "D" felony.

Sec. 11. NEW SECTION. 80A.16A CIVIL LIABILITY OF BAIL ENFORCEMENT AGENTS.

1. A person other than a defendant who is injured in person or property by the actions of a bail enforcement agent in taking or attempting to take a defendant into custody may bring a civil action for damages against such agent and the bail enforcement business for breach of any applicable standard of care.

2. Notwithstanding the limitation of liability of any surety for the actions of a bail enforcement agent or bail enforcement business, the court shall enter a judgment against a bail enforcement agent or bail enforcement business determined to have breached the applicable standard of care. The judgment shall include an award of treble damages, and recovery of costs and reasonable attorney fees.

Sec. 12. Section 811.8, subsection 3, Code 1997, is amended to read as follows:

3. For the purpose of surrendering the defendant, the surety, subject to the limitations of section 811.12 and chapter 80A, at any time ~~before finally charged and at any place within the state,~~ may arrest the defendant, or, by a written authority endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so. In making an arrest pursuant to this subsection, the surety or any person empowered by the surety shall possess no more authority than a peace officer would possess in making a lawful arrest under section 804.8, 804.13, 804.14, or 804.15.

Sec. 13. NEW SECTION. 811.12 LIMITATIONS.

1. A person shall not take or attempt to take into custody the principal on a bail bond, either as a surety on a bail bond in a criminal proceeding or as an agent of such surety, unless such person has complied with all of the following, if applicable:

a. Notification or registration with a chief law enforcement officer under section 80A.3A.  
b. Licensing requirements for bail enforcement businesses and bail enforcement agents under chapter 80A.

2. A person other than a certified peace officer shall not be authorized to apprehend, detain, or arrest a principal on a bail bond, wherever issued, unless one of the following applies:

a. The person is a bail enforcement agent licensed under chapter 80A and has notified the chief law enforcement officer under section 80A.3A.

b. The person is a bail enforcement agent licensed under the laws of another state and has registered with the chief law enforcement officer under section 80A.3A.

c. The person is a bail enforcement agent from a state that does not license such businesses who has registered with the chief law enforcement officer under section 80A.3A.

Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 23, 1998

---

## CHAPTER 1150

### REAL ESTATE TITLES INVOLVING BANKRUPTCY

S.F. 2378

**AN ACT** relating to real estate titles involving bankruptcy.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 626C.1 DEFINITION.

As used in this chapter, unless the context otherwise requires, "bankruptcy transcript" means a document or documents certified by the clerk or deputy clerk of any United States bankruptcy court as being true and correct copies of documents on file with the United States bankruptcy court of any district in the United States which is entitled to full faith and credit in this state. "Bankruptcy transcript" includes a bankruptcy court clerk's certificate of the proceedings that have transpired in a bankruptcy as is necessary to satisfy all applicable title standards of this state.

Sec. 2. NEW SECTION. 626C.2 FILING AND STATUS OF BANKRUPTCY TRANSCRIPTS.

A bankruptcy transcript authenticated in accordance with an Act of Congress or the statutes of the state may be filed in the office of the clerk of the district court of a county in which real estate affected by the bankruptcy is located.

Sec. 3. NEW SECTION. 626C.3 NOTICE OF FILING.

1. At the time of the filing of the bankruptcy transcript, the person filing the transcript shall make and file with the clerk of the district court an affidavit setting forth the name and last known post office address of the owner of the affected real estate and of the person filing the bankruptcy transcript.

2. Within three business days upon the filing of the bankruptcy transcript and the affidavit as provided in subsection 1, the clerk shall mail notice of the filing of the bankruptcy transcript to the owner of the affected real estate at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the person filing the bankruptcy transcript and the attorney for that person, if any, in this state.