

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1544 Session of
2009

INTRODUCED BY BOYLE, STURLA, MANN, JOSEPHS, DONATUCCI, HORNAMAN,
BRENNAN, BROWN, D. COSTA, MURT, PAYTON, SANTONI, SIPTROTH AND
GIBBONS, MAY 29, 2009

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MAY 29, 2009

AN ACT

1 Regulating electronic life safety and security systems
2 contractors; establishing the State Board of Electronic Life
3 Safety and Security Systems Contractors; providing for funds,
4 for licensure, for disciplinary action, for remedies, for
5 penalties and for preemption.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Electronic
10 Life Safety and Security Systems Contractors Licensure Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Access control system." A combination of electronic
16 equipment and devices designed and arranged for the control of
17 authorized individuals, vehicles and materials through entrances
18 and exits of a controlled area.

19 "Account." The Professional Licensure Augmentation Account.

1 "Agent." An individual who, in the employ of a contractor,
2 may sell, install, service, inspect, test or maintain burglar
3 alarm systems, fire or personal emergency response systems in
4 this Commonwealth.

5 "Applicant." An individual who applies for a license.

6 "Board." The State Board of Electronic Life Safety and
7 Security Systems Contractors.

8 "Bureau." The Bureau of Professional and Occupational
9 Affairs.

10 "Burglar alarm system." An assembly of equipment and devices
11 designed and arranged to signal an unauthorized entry to
12 attempted entry of a person or an object into an area covered by
13 the system.

14 "Closed circuit television." An in-house television system
15 in which a transmitter feeds one or more receivers through a
16 closed cable or other transmission method.

17 "Commissioner." The Commissioner of Professional and
18 Occupational Affairs.

19 "Conviction." A judgment of guilt, an admission of guilt or
20 a plea of nolo contendere.

21 "Department." The Department of State of the Commonwealth.

22 "Director." The director of the Bureau of Consumer
23 Protection in the Office of Attorney General.

24 "Expungement." The removal of an individual's criminal
25 record under 18 Pa.C.S. § 9122 (relating to expungement).

26 "Fire alarm system." An assembly of equipment and devices
27 designed and arranged to signal a fire.

28 "License." A license to engage in business as a contractor
29 under this act.

30 "Licensee." An individual who holds a license to engage in

1 business as a contractor under this act.

2 "Monitoring." The transmission of information received from
3 security systems to the proper individual as required by law or
4 as determined by the security systems user.

5 "NBFAA." National Burglar and Fire Alarm Association.

6 "Operator." An individual registered to perform alarm
7 operator, dispatch, monitor functions of security systems.

8 "Security system." An assembly of electronic equipment and
9 devices that provides, as its main purpose, the protection of
10 life or property and the detection of threats or violations to
11 the security of the protected premises. The systems functions
12 include, solely or in combination: burglar alarm systems, fire
13 alarm systems, electronic access control systems, video
14 surveillance systems or personal emergency response systems.

15 Section 3. Board.

16 (a) Establishment.--There is established the State Board of
17 Electronic Life Safety and Security Systems Contractors, an
18 administrative board within the department. The board shall
19 consist of 13 members who are citizens of the United States and
20 who have been residents of this Commonwealth for at least a
21 five-year period prior to the effective date of this section.

22 The board shall be composed of the following individuals:

23 (1) Two members who are members of the public.

24 (2) Seven members who meet the educational and
25 experience qualifications for licensure under section 5.

26 These eight members must have been actively engaged in
27 providing alarm contracting services in this Commonwealth for
28 at least ten years immediately preceding appointment.

29 (3) The president of the Pennsylvania Professional
30 Firefighters Association or a designee.

1 (4) The director or a designee.

2 (5) The commissioner or a designee.

3 (6) The president of the Pennsylvania Chiefs of Police
4 Association or a designee.

5 (b) Term of office.--Except as provided in subsection (c),
6 the members of the board shall serve for four-year terms and
7 shall be appointed by the Governor by and with the advice and
8 consent of a majority of the members elected to the Senate.

9 (c) Initial appointments.--Within 180 days of the effective
10 date of this section, the Governor shall nominate two
11 professional members and one public member to serve four-year
12 terms, one public member and two professional members to serve
13 three-year terms, two professional members to serve two-year
14 terms and two professional members to serve a one-year term. A
15 professional member initially appointed to the board under this
16 act need not be licensed at the time of appointment, but at the
17 time of appointment must have satisfied the eligibility
18 requirements for licensure and must have practiced medical
19 physics for five consecutive years or more immediately preceding
20 the appointments.

21 (d) Continuation in office.--Each board member shall
22 continue in office until a successor is appointed and qualified
23 but no longer than six months after the expiration of the term.
24 If a board member dies, resigns or otherwise becomes
25 disqualified during the term of office, a successor shall be
26 appointed in the same way and with the same qualifications as
27 set forth in this section and shall hold office for the
28 unexpired portion of the term.

29 (e) Limit on terms.--No board member shall be eligible for
30 reappointment to serve more than two consecutive four-year

1 terms.

2 (f) Forfeiture of membership.--A professional or public
3 member who fails to attend three meetings in 18 months shall
4 forfeit the member's seat unless the commissioner, upon written
5 request from the member, finds that the member should be excused
6 from a meeting because of illness or death of a family member.

7 (g) Compensation.--A member of the board, except the
8 commissioner, shall receive per diem compensation at the rate of
9 \$60 when actually attending to the work of the board. Members
10 shall also receive reasonable traveling, hotel and other
11 necessary expenses incurred in the performance of their duties
12 in accordance with regulations.

13 (h) Forfeiture for nonattendance.--A public member who fails
14 to attend two consecutive statutorily mandated conferences in
15 accordance with section 813(e) of the act of April 9, 1929
16 (P.L.177, No.175), known as The Administrative Code of 1929,
17 shall forfeit the public member's seat unless the commissioner,
18 upon written request from the public member, finds that the
19 public member should be excused from a conference because of
20 illness or the death of a family member.

21 (i) Quorum.--A majority of the members of the board shall
22 constitute a quorum for the purposes of conducting the business
23 of the board. Except for temporary and automatic suspensions
24 under section 11(d), a member may not be counted as part of a
25 quorum or vote on any issue unless the member is physically in
26 attendance at the meeting.

27 (j) Chairperson.--The board shall annually select a
28 chairperson from among its members.

29 (k) Meetings.--The board shall meet at least four times a
30 year in Harrisburg and at other times and places as the board

1 shall determine is necessary to conduct board business. The
2 board shall keep minutes and records of all proceedings and
3 transactions.

4 (l) Operating procedures.--The board shall meet within 30
5 days after the appointment of its initial members and shall
6 institute operating procedures and an application form for
7 licensing electronic life safety and security systems
8 contractors. It shall be the responsibility of the board to
9 educate the public as to the requirements of licensing in order
10 to hold oneself out or to practice as a licensed electronic life
11 safety and security systems contractor within this Commonwealth.

12 (m) Recordkeeping.--An attorney responsible for representing
13 the Commonwealth in disciplinary matters before the board shall
14 maintain current records of all reported alleged violations and
15 shall periodically review the records for the purpose of
16 determining that each alleged violation has been resolved in a
17 timely manner.

18 Section 4. Powers and duties of board.

19 The board has the following powers and duties:

20 (1) To pass upon the qualifications and fitness of
21 applicants for licenses and reciprocal licenses.

22 (2) To promulgate regulations not inconsistent with this
23 act and only as necessary to carry out this act.

24 (3) To examine, deny, approve, issue, revoke, suspend or
25 renew licenses of electronic life safety and security systems
26 contractors under this act and to conduct hearings in
27 connection with those powers and duties.

28 (4) To issue subpoenas upon application of an attorney
29 responsible for representing the Commonwealth in disciplinary
30 matters before the board, for purposes of investigating

1 alleged violations of this act or regulations of the board.
2 The board is authorized to apply to Commonwealth Court to
3 enforce its subpoenas. The court may impose limitations in
4 the scope of the subpoena as is necessary to prevent
5 unnecessary intrusion into client confidential information.

6 (5) To administer oaths, examine witnesses, to take
7 testimony or to compel the production of documents as it may
8 deem necessary or proper in and pertinent to any proceeding,
9 investigation or hearing held or had by the board.

10 (6) To submit annually a report to the Consumer
11 Protection and Professional Licensure Committee of the Senate
12 and the Professional Licensure Committee of the House of
13 Representatives containing a description of the types of
14 complaints received, status of the cases, board action which
15 has been taken and length of time from the initial complaint
16 to final board resolution.

17 (7) To submit annually to the Appropriations Committee
18 of the Senate and the Appropriations Committee of the House
19 of Representatives, within 15 days after the Governor has
20 submitted a budget to the General Assembly, a copy of the
21 budget request for the upcoming fiscal year which the board
22 previously submitted to the department.

23 (8) To establish standards of eligibility for license
24 renewal. These standards shall include, but not be limited
25 to, the demonstration of satisfactory completion of a minimum
26 of 24 hours of continuing education in accordance with board
27 regulations. No credit may be given for courses in office
28 management or practice building. The board may waive all or
29 part of the continuing education requirement to a licensee
30 who shows to the satisfaction of the board that the licensee

1 was unable to complete the requirement due to illness,
2 emergency or hardship.

3 Section 5. Qualification for licensure.

4 (a) Applicants.--An applicant shall be considered to be
5 qualified for a license if the applicant submits proof
6 satisfactory to the board of all of the following:

7 (1) The applicant is of good moral character.

8 (2) The applicant has a high school diploma or its
9 equivalent.

10 (3) The applicant has completed a graduate degree from
11 an accredited college or university in accordance with
12 regulations developed by the board.

13 (4) The applicant has passed an examination under
14 section 9.

15 (5) The applicant has paid a fee as established by the
16 board by regulation.

17 (6) The applicant has not been convicted of a felony
18 under the act of April 14, 1972 (P.L.233, No.64), known as
19 The Controlled Substance, Drug, Device and Cosmetic Act, or
20 of an offense under the laws of another jurisdiction which,
21 if committed in this Commonwealth, would be a felony under
22 The Controlled Substance, Drug, Device and Cosmetic Act,
23 unless the following apply:

24 (i) At least ten years have elapsed from the date of
25 conviction.

26 (ii) The applicant satisfactorily demonstrates to
27 the board that the applicant has made significant
28 progress in personal rehabilitation since the conviction,
29 and that licensure of the applicant should not be
30 expected to create a substantial risk of harm to the

1 health and safety of the applicant's clients or the
2 public or a substantial risk of further criminal
3 violations.

4 (iii) The applicant otherwise satisfies the
5 qualifications required under this act.

6 (b) Existing practitioners.--The board shall issue a license
7 to an applicant who, on the effective date of this subsection,
8 complies with all of the following paragraphs:

9 (1) Meets the qualifications described in subsection (a)
10 (1), (2), (5) and (6).

11 (2) Complies with one of the following subparagraphs:

12 (i) Has been in active, continuous practice for at
13 least five years immediately preceding the effective date
14 of this section.

15 (ii) Has passed an examination that is part of a
16 certification program accredited by the National
17 Commission for Certifying Agencies.

18 (iii) Has:

19 (A) passed a standardized examination in the
20 field as required by the regulations of the board;
21 and

22 (B) completed instruction in the field and in
23 related subjects as required by the regulations of
24 the board.

25 (iv) Has:

26 (A) passed a standardized examination in the
27 field as required by the regulations of the board;
28 and

29 (B) completed instruction in the field and in
30 related subjects as required by the regulations of

1 the board.

2 (c) Transferability.--A license is not transferable.

3 (d) Waiver of standardized examination.--The board may grant
4 a license to an applicant without examination if:

5 (1) The individual applies within one year of the
6 effective date of this act.

7 (2) The individual meets the requirements of age and
8 character and pays a fee established by the board.

9 (3) The individual submits proof to the satisfaction of
10 the board of at least five years' work experience within this
11 Commonwealth immediately prior to the enactment of this act
12 in the area of practice of the license.

13 Section 6. Categories of licenses.

14 (a) Contractor licenses.--

15 (1) A security alarm license will be issued to
16 contractors that sell, install, service, inspect, test or
17 maintain burglar alarm systems, residential fire alarm
18 systems, electronic access systems or that provide monitoring
19 of burglar alarm systems, electronic access control systems,
20 video surveillance systems or personal emergency response
21 systems. Applicants must satisfactorily complete either:

22 (i) The NBFAA level one certified alarm technician
23 course and one of the following:

24 (A) NBFAA advanced burglar alarm technician
25 course.

26 (B) NBFAA electronic access control course.

27 (C) NBFAA video system technologies course.

28 (ii) Forty hours of training approved by the board.

29 Satisfactory completion shall be indicated by

30 successfully completing 70% or more of the multiple-

1 choice questions on a board-approved open book multiple-
2 choice test.

3 (2) A fire alarm systems license will be issued to
4 contractors that sell, install, service, inspect, test or
5 maintain commercial fire alarm systems or that provide
6 monitoring of fire alarm systems. Applicants must
7 satisfactorily complete either:

8 (i) The NBFAA level one certified alarm technician
9 course and the NBFAA fire alarm installation methods
10 course.

11 (ii) Forty hours of training approved by the board.
12 Satisfactory completion shall be indicated by
13 successfully completing 70% or more of the multiple
14 choice questions on a board-approved open book multiple-
15 choice test.

16 (3) A monitoring license will be issued to contractors
17 that provide monitoring only of burglar alarm systems, fire
18 alarm systems, electronic access control systems, video
19 surveillance systems or personal emergency response systems.
20 This license shall also require the following:

21 (i) A contractor shall maintain employee records for
22 all operators during their employment and for one year
23 after the end of their employment. Records shall be
24 available upon request of the board or a designated
25 investigator.

26 (ii) An affidavit of compliance shall be submitted
27 upon initial license application and upon biennial
28 renewal.

29 (iii) All individuals designated as operators must
30 have their fingerprints and FBI criminal background check

submitted to the contractor within 90 days of employment.
This information shall be maintained in the employee's
records by the contractor.

(b) Agent licenses.--

(1) A qualified agent license will be issued to an individual whose qualifications have been demonstrated to the board for overseeing and supervising the operations of the contractor license holder of any classification or combination of classifications for only one contractor. The licensed contractor shall be responsible for the actions of the qualified agent. The qualified agent is required to:

(i) Oversee the quality of operations of the contractor license holder.

(ii) Comply with the State licensing requirements.

(iii) Be a full-time employee of the contractor license holder.

(iv) Submit an affidavit to the board stating that he or she has been named the qualifying agent for that contractor license holder. The affidavit shall be submitted to the board within 30 days of designation.

(2) An alarm agent license will be issued to an individual who sells, installs, services, inspects, tests or maintains alarm systems. The individuals must have minimum training within one year of being employed and their fingerprints and FBI background checks submitted within 90 days of employment. The agent has the duty to notify the board of any arrest or conviction within ten days of the arrest or conviction.

(i) Alarm agent licensees shall be required to pass, with a score of 70% or better, a multiple-choice open

1 book certification examination created and supervised by
2 the board. This examination is separate from the tests
3 validating educational requirements but shall be
4 comprised of the material presented in the educational
5 courses. The examination must be taken after the
6 applicant has completed training prescribed for the
7 applicant's chosen technical area. All educational
8 requirements and certification examination must be
9 completed within one year from the date of the license
10 application.

11 (ii) As part of the requirements for licensure, all
12 alarm agent licensees must successfully complete the
13 prescribed training in at least one of the three
14 disciplines governed by the license.

15 Section 7. Expungement.

16 The board shall expunge a disciplinary record of a licensee
17 if all of the following criteria are met:

18 (1) The licensee makes a written application to the
19 board for expungement after four years from the effective
20 date of the disciplinary record.

21 (2) The record is the only record that the licensee has
22 with the board.

23 (3) The licensee has not had any other records expunged
24 previously.

25 (4) The record involved either the imposition of a civil
26 penalty against the licensee for a violation under, or a
27 violation that at the time of the application for expungement
28 would be prosecuted under, authority of section 5(a) of the
29 act of July 2, 1993 (P.L.345, No.48), entitled "An act
30 empowering the General Counsel or his designee to issue

1 subpoenas for certain licensing board activities; providing
2 for hearing examiners in the Bureau of Professional and
3 Occupational Affairs; providing additional powers to the
4 Commissioner of Professional and Occupational Affairs; and
5 further providing for civil penalties and license
6 suspension."

7 Section 8. Biennial renewal of license.

8 (a) Duration of license.--A license shall be valid for two
9 years. The expiration date shall be established by regulation of
10 the board. Application for renewal of a license shall be
11 forwarded to an individual holding a current license prior to
12 the expiration date of the current renewal.

13 (b) Procedure.--To renew a license, a licensee must do all
14 of the following:

15 (1) File a renewal application with the board.

16 (2) File certification of successful completion of 24
17 hours of approved continuing education during the immediately
18 preceding two years with the board. Certification of
19 continuing education credit hours submitted by the licensee
20 shall be properly signed as being correct and true. All
21 continuing education courses, materials, locations and
22 instructors shall be approved by the board. No credit may be
23 given for a course in office management or practice building.

24 (3) Show proof of liability insurance in the amount the
25 board requires. If this insurance lapses at any point after
26 filing the proof of insurance, before or after renewal, the
27 licensee shall notify the board in writing within 30 days and
28 be placed on inactive status. The licensee shall be subject
29 to disciplinary measures by the board for failure to notify
30 within 30 days.

1 (4) Pay a fee established by regulation of the board.

2 (c) Inactive status.--Any person licensed under this act may
3 request an application for inactive status. The application may
4 be completed and returned to the board. Upon receipt of each
5 application, the applicant shall be maintained on inactive
6 status without fee and shall be entitled to apply for an active
7 license at any time. An application to reactivate a license
8 which has been placed on inactive status for less than five
9 years shall be accompanied by a verification of nonpractice, the
10 renewal fee and documentation evidencing the satisfactory
11 completion of the continuing education requirement for the
12 preceding biennial period. Any person who requests an active
13 status license who has been on inactive status for a period of
14 five consecutive years or longer shall, prior to receiving an
15 active license, satisfy the requirements of the board's
16 regulations for ensuring continued competence and remit the
17 required fee. A person shall not be denied active status as a
18 result of any increased educational requirements for licensure
19 since the time the person received an original license.

20 (d) Reporting of multiple licensure.--A licensee who is
21 licensed as an electronic life safety and security systems
22 contractor in another jurisdiction shall report this information
23 to the board on the license renewal application. Any
24 disciplinary action taken in another jurisdiction shall be
25 reported to the board on the license renewal application or
26 within 90 days of final disposition, whichever is sooner.
27 Multiple licensure shall be noted by the board on the licensee's
28 record, and the other licensing jurisdiction shall be notified
29 by the board of any disciplinary actions taken against the
30 licensee in this Commonwealth.

1 (e) Waiver of continuing education requirements.--The board
2 may waive all or part of the required continuing education
3 credits for an individual who shows evidence to the satisfaction
4 of the board that the individual was unable to complete the
5 requirement due to illness, emergency, military service or other
6 hardship.

7 Section 9. Examinations.

8 The board shall contract with a professional testing
9 organization for the examination of qualified applicants for
10 security alarm license, fire alarm systems license or alarm
11 agent license. The board shall approve the examination before it
12 is administered. Any examination approved by the board must meet
13 generally recognized principles and standards. All written, oral
14 and practical examinations shall be prepared and administered by
15 a qualified and approved professional testing organization in
16 the manner prescribed for written examinations by section 812.1
17 of the act of April 9, 1929 (P.L.177, No.175), known as The
18 Administrative Code of 1929.

19 Section 10. Reciprocity.

20 The board has the power to grant a reciprocal license without
21 further examination to an applicant who is licensed or certified
22 as an electronic life safety and security systems contractor or
23 similar practice in another state and has demonstrated
24 qualifications which equal or exceed those required under this
25 act in the determination of the board. No license shall be
26 granted under this section to an applicant unless the state in
27 which the applicant is licensed affords reciprocal treatment to
28 individuals who are residents of this Commonwealth and who are
29 licensed under this act. The applicant must pay a required fee
30 as set by the board.

1 Section 11. Refusal, suspension and revocation of licenses.

2 (a) Grounds.--The board may refuse, suspend, revoke, limit
3 or restrict a license or discipline a licensee for any of the
4 following:

5 (1) Being convicted under Federal law, under the law of
6 any state or under the law of another jurisdiction of a crime
7 of moral turpitude or of an offense which, if committed in
8 this Commonwealth, would constitute a felony.

9 (2) Being found to have engaged in unprofessional
10 conduct. In proceedings based on this paragraph, actual
11 injury to the client need not be established. As used in this
12 paragraph, the term "unprofessional conduct" includes a
13 departure from or failure to conform to the standards of
14 acceptable and prevailing practice.

15 (3) Violating standards of professional practice or
16 conduct as established by board regulation.

17 (4) Presenting false credentials or documents or making
18 a false statement of fact in support of the individual's
19 application for a license.

20 (5) Submitting a false or deceptive license renewal to
21 the board.

22 (6) Having a license suspended, revoked or refused or
23 receiving other disciplinary action by the proper licensing
24 authority of another jurisdiction.

25 (7) Violating a regulation promulgated by the board or
26 violating an order of the board previously entered in a
27 disciplinary proceeding.

28 (8) Incompetence, negligence or misconduct in carrying
29 out the contracting services.

30 (9) Acting in such a manner that constitutes an

1 immediate and clear danger to health, safety or property.

2 (10) Practicing beyond the licensee's defined scope of
3 practice.

4 (11) Knowingly aiding, assisting, hiring or advising
5 someone in the unlawful practice of contracting under this
6 act.

7 (12) Falsely advertising, making or performing
8 misleading, deceptive, untrue or fraudulent material
9 representations regarding licensure or in the performance of
10 electronic life safety and security systems contracting
11 services.

12 (13) Being unable to practice with reasonable skill and
13 safety by reason of illness, drunkenness, use of drugs,
14 narcotics, chemicals or any other type of material or as a
15 result of any mental or physical condition. In enforcing this
16 paragraph, the board, upon probable cause, has authority to
17 compel a licensee to submit to a mental or physical
18 examination by a physician approved by the board. Failure of
19 a licensee to submit to an examination when directed by the
20 board, unless the failure is due to circumstances beyond the
21 licensee's control, may result in a default and final order
22 entered against the licensee without the taking of testimony
23 or presentation of evidence. A licensee affected under this
24 paragraph shall be afforded an opportunity to demonstrate
25 that the licensee can resume competent practice with
26 reasonable skill and safety.

27 (14) Failing to satisfy the continuing education
28 requirements of the board unless waived.

29 (b) Board action.--If the board finds that the license or
30 application for license may be refused, revoked, restricted or

suspended under the terms of subsection (a), the board may do any of the following:

(1) Deny the application for a license.

(2) Administer a public reprimand.

(3) Revoke, suspend, limit or otherwise restrict a license.

(4) Require a licensee to submit to the care, counseling or treatment of a physician.

(5) Suspend enforcement of its findings and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore a suspended license and impose any disciplinary or corrective measure which it might originally have imposed.

(c) Administrative Agency Law.--Actions of the board under subsections (a) and (b) are subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(d) Temporary suspension.--

(1) A license issued under this act shall be temporarily suspended under circumstances determined by the board to be an immediate and clear danger to the public health and safety. The board shall issue an order to that effect without a hearing, but, upon due notice, to the licensee concerned, at his or her last known address, which shall include a written statement of all allegations against the licensee. The provisions of subsection (c) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person

1 concerned as otherwise provided for in this act. All actions
2 shall be taken promptly and without delay. Within 30 days
3 following the issuance of an order temporarily suspending a
4 license, the board shall conduct or cause to be conducted a
5 preliminary hearing to determine that there is a prima facie
6 case supporting the suspension. The licensee whose license
7 has been temporarily suspended may be present at the
8 preliminary hearing and may be represented by counsel, cross-
9 examine witnesses, inspect physical evidence, call witnesses,
10 offer evidence and testimony and make a record of the
11 proceedings. If it is determined that there is not a prima
12 facie case, the suspended license shall be immediately
13 restored. The temporary suspension shall remain in effect
14 until vacated by the board, but in no event longer than 180
15 days.

16 (2) A license issued under this act shall be temporarily
17 suspended upon the legal commitment of a licensee to an
18 institution because of mental incompetence from any cause
19 upon filing with the board a certified copy of such
20 commitment, conviction of a felony under the act of April 14,
21 1972 (P.L.233, No.64), known as The Controlled Substance,
22 Drug, Device and Cosmetic Act, or conviction of a felony
23 under the laws of another jurisdiction, which if committed in
24 this Commonwealth, would be a felony under The Controlled
25 Substance, Drug, Device and Cosmetics Act.

26 Section 12. Surrender and reinstatement of license.

27 (a) Surrender of license.--The board shall require an
28 individual whose license has been suspended or revoked to return
29 the license in a manner the board shall direct. Failure to do so
30 shall be a misdemeanor of the third degree upon conviction

1 thereof.

2 (b) Reinstatement of license.--Unless ordered to do so by a
3 court of competent jurisdiction, the board shall not reinstate
4 the license of an individual which has been revoked. An
5 individual whose license has been revoked may reapply for a
6 license after a period of at least five years, and must meet all
7 of the licensing requirements of this act.

8 Section 13. Setting of fees and disposition of fees, fines and
9 civil penalties.

10 (a) Setting of fees.--All fees required under this act shall
11 be fixed by the board by regulation and shall be subject to the
12 act of June 25, 1982 (P.L.633, No.181), known as the Regulatory
13 Review Act. If the revenues raised by the fees, fines and civil
14 penalties imposed under this act are not sufficient to meet
15 expenditures over a two-year period, the board shall increase
16 those fees by regulation so that projected revenues will meet or
17 exceed projected expenditures.

18 (b) Fee increase.--If the bureau determines that the fees
19 established by the board under subsection (a) are inadequate to
20 meet the minimum enforcement efforts required by this act, then
21 the bureau, after consultation with the board and subject to the
22 Regulatory Review Act, shall increase the fees by regulation in
23 an amount that adequate revenues are raised to meet the required
24 enforcement effort.

25 (c) Disposition of fees, fines and civil penalties.--All
26 fees, fines and civil penalties imposed in accordance with this
27 act shall be paid into the Professional Licensure Augmentation
28 Account.

29 (d) Fees permitted.--The board may charge a fee, as set by
30 the board by regulation, for all examinations, registrations,

1 renewals, certifications, licenses or applications permitted by
2 this act or regulations under this act.

3 Section 14. Public access to list of licensees.

4 The board shall maintain a current list of any person
5 licensed with the board. The list shall be posted on the board's
6 Internet website and shall be subject to the act of February 14,
7 2008 (P.L.6, No.3), known as the Right-to-Know Law.

8 Section 15. Other professions.

9 Nothing in this act shall be construed as preventing,
10 restricting or requiring licensure of any of the following:

11 (1) The installation, erection, repair, maintenance,
12 removal, demolition or alteration of electrical equipment or
13 electrical systems for generation, transmission and
14 utilization of electrical energy owned or operated by a
15 political subdivision, public utility, electrical cooperative
16 corporation, school district, a railway or the Federal
17 Government.

18 (2) Operating commercial radio and television
19 transmission equipment.

20 (3) The installation, erection, repair, maintenance,
21 removal, demolition or alteration of electrical equipment and
22 systems for generation, transmission and utilization of
23 electrical energy in structures, facilities, buildings or
24 premises owned or operated by the Federal Government.

25 (4) Retail and Internet sales of electronic life safety
26 and security systems directly to the consumer for self-
27 installation and personal use.

28 (5) Personal emergency response systems provided by
29 nonprofit or social agencies.

30 (6) Person who personally performs electronic life

1 safety and security systems work on the site of the real
2 property which the person owns or leases, whether for
3 commercial or residential purposes.

4 (7) Work done by an employee of the Commonwealth, a
5 county, municipality or municipal corporation and any
6 government subdivision or agency thereof.

7 (8) Work performed by a public utility company regulated
8 by the Pennsylvania Public Utility Commission and its
9 employees.

10 (9) Work performed by a regular employee for which the
11 employees are paid regular wages on property which the
12 employer owns or leases, whether for commercial or
13 residential purposes.

14 Section 16. Unlawful practice.

15 (a) General rule.--Except as set forth in section 15(1) and
16 (2), an individual may not provide electronic life safety and
17 security systems contracting services, offer services as a
18 contractor or hold the individual out to be a contractor unless
19 licensed by the board.

20 (b) Title.--Only an individual licensed under this act shall
21 use the title "licensed electronic life safety and security
22 systems contractor."

23 (c) Notice to public.--Contractors with a valid license
24 under this act shall keep the license or a copy of the license
25 posted in a conspicuous place at their primary place of
26 business. The license number shall be included in all
27 contracting advertisements and all fully executed and binding
28 contracts.

29 (d) Employment.--An individual, corporation, partnership,
30 firm or other entity may not employ an individual as an

1 electronic life safety and security systems contractor unless
2 the individual is licensed by the board.

3 (e) Terminology.--Except as set forth in section 15(1), a
4 business entity may not utilize in connection with a business
5 name or activity any derivative of the terms and their related
6 abbreviations which implies directly or indirectly that
7 electronic life safety and security systems contracting services
8 are being provided, unless services of the business are provided
9 by at least one licensee. A business entity shall not direct or
10 employ an individual to provide contracting services unless the
11 individual is licensed under this act. The board shall
12 promulgate regulations under this subsection.

13 (f) Injunction.--It shall be unlawful for any person to
14 practice or attempt to offer electronic life safety and security
15 systems contracting services as defined in this act without
16 having, at the time of so doing, a valid, unexpired, unrevoked
17 and unsuspended license issued under this act. The unlawful
18 practice may be enjoined by the courts on petition of the board
19 or the commissioner. In any such proceeding, it shall not be
20 necessary to show that any person is individually injured by the
21 actions complained of. If it is determined that the respondent
22 has engaged in the unlawful practice, the court shall enjoin the
23 respondent from so practicing unless and until the respondent
24 has been duly licensed. Procedure in such cases shall be the
25 same as in any other injunction suit. The remedy by injunction
26 hereby given is in addition to any other civil or criminal
27 prosecution and punishment.

28 (g) Remedy cumulative.--The injunctive remedy provided in
29 this section shall be in addition to any other civil or criminal
30 prosecution and punishment.

1 Section 17. Violation of act.

2 (a) General rule.--Notwithstanding any law to the contrary,
3 a person that violates a provision of this act commits a
4 misdemeanor of the third degree and shall, upon conviction, be
5 sentenced to pay a fine of not more than \$1,000 or to
6 imprisonment for not more than six months for the first
7 violation and to pay a fine of not more than \$2,000 or to
8 imprisonment for not less than six months nor more than one
9 year, or both, for each subsequent violation.

10 (b) Civil penalty.--In addition to any other civil remedy or
11 criminal penalty provided for in this act, the board, by a vote
12 of the majority of the maximum number of the authorized
13 membership of the board or by a vote of the majority of the
14 qualified and confirmed membership or a minimum of five members,
15 whichever is greater, may levy a civil penalty of up to \$10,000
16 on any of the following:

17 (1) A licensee who violates a provision of this act.

18 (2) An individual who performs electronic life safety
19 and security systems contracting services in violation of
20 this act.

21 (3) An individual who holds himself out as a licensee
22 without being properly licensed as provided in this act.

23 (4) The responsible officers or employees of a
24 corporation, partnership, firm or other entity that violates
25 a provision of this act.

26 (5) A licensee who fails to provide information,
27 documents or records requested by the board or a
28 representative of the board in connection with an
29 investigation or prosecution of a disciplinary matter under
30 this act.

1 (c) Assessment of costs of investigation.--The board may
2 assess against the respondent in a disciplinary action under
3 this act, as part of the sanction, the cost of investigation
4 underlying that disciplinary action. The costs of investigation
5 shall not include legal fees or the cost of prosecution.

6 (d) Administrative Agency Law.--Action of the board under
7 subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
8 to practice and procedure of Commonwealth agencies) and 7 Subch.
9 A (relating to judicial review of Commonwealth agency action).

10 Section 18. Preemption.

11 (a) Preemption.--This act shall preempt and supersede any
12 ordinance relating to the licensure or regulation of electronic
13 life safety and security systems contractors by a political
14 subdivision in effect on the effective date of this section.

15 (b) Powers reserved.--Nothing in this act shall be construed
16 to prevent a political subdivision from the following:

17 (1) Levying lawful taxes and fees.

18 (2) Requiring the purchase of a business privilege
19 license that is unrelated to demonstrating competence in the
20 performance of electronic life safety and security systems
21 contracting services.

22 (3) Denying or revoking permits for failing to comply
23 with ordinances which are not inconsistent with either this
24 act or regulation of the board.

25 (4) Enforcing ordinances related to health and safety.

26 (5) Pursuant to an ordinance, inspecting or regulating
27 the manner in which electrical services are performed.

28 Section 19. Effect of licensure.

29 Licensure under this act shall not be construed as requiring
30 new or additional third-party reimbursement or otherwise

mandating coverage under 75 Pa.C.S. Ch. 17 (relating to financial responsibility) or the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

Section 20. Tape dialers and digital voice dialers.

Under no circumstance shall tape dialers or digital voice dialers be programmed to report directly to a public safety agency.

Section 21. Funding.

Funds necessary for the payment of costs associated with processing licenses and renewing licenses, for the operation of the board and for other costs associated with this act shall be transferred from the Professional Licensure Augmentation Account to the department. The transferred funds shall be repaid by the board to the account within three years of the beginning of issuance of licenses by the board.

Section 22. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provisions or application.

Section 23. Regulations.

The board shall promulgate regulations to carry out this act. Publication of the final-form regulations under this section shall take place within 18 months of the effective date of this section. The board shall report, within 180 days of the effective date of this section, and every 30 days thereafter, on the status of the regulations to the Consumer Protection and Professional Licensure Committee of the Senate and the Professional Licensure Committee of the House of

1 Representatives.

2 Section 30. Effective date.

3 This act shall take effect as follows:

4 (1) The following provisions shall take effect
5 immediately:

6 (i) Sections 3, 4 and 23.

7 (ii) This section.

8 (2) The remainder of this act shall take effect in three
9 years.