

IC 25-16

ARTICLE 16. EMPLOYMENT SERVICES

IC 25-16-1

Chapter 1. Regulation of Employment Services

IC 25-16-1-1

Necessity of license; issuance; display

Sec. 1. A person, firm, limited liability company, or corporation may not open, operate, or maintain an employment agency in this state without first obtaining a license for that purpose from the department. Each license shall contain a designation of the city or town, together with the name of the street and the number of the building where the licensed person, firm, limited liability company, or corporation conducts or is to conduct the employment agency. The license, together with a copy of this law, shall be posted in a conspicuous place in each and every place or office where the agency does business. No agency shall write, print, publish, paint, or display in any way any sign, card, or advertisement in any way similar to the name "Indiana Free Employment Service". All advertisements and statements, window signs, door signs, and all literature used, displayed or circulated by any such agency shall contain the regularly licensed name of the agency. The location of an agency may not be changed without the written consent of the department of state revenue. A license issued under this chapter is not transferable.

(Formerly: Acts 1927, c.25, s.1.) As amended by Acts 1982, P.L.154, SEC.57; P.L.35-1983, SEC.2; P.L.8-1993, SEC.382.

IC 25-16-1-2

Bond; revocation of license

Sec. 2. (a) The department of state revenue shall require each and every applicant for a license to execute to the state of Indiana a bond in the penal sum of one thousand dollars (\$1,000), with a surety company, or with two (2) solvent resident freeholders, conditioned that the obligor will not violate any of the duties, terms, conditions, or provisions of this chapter, and the bond so executed, shall be approved by the department.

(b) The department is hereby authorized to cause an action to be brought on such bond, in the name of the state of Indiana, for any violation of any of the conditions of such bond, and may, after a hearing, revoke such license, whenever, in its judgment, the licensee has violated any of the provisions of this chapter, or has been convicted of the violation of any criminal law of this or any other state, subject to an appeal under IC 4-21.5 by the person, firm, limited liability company, or corporation whose license is so revoked.

(c) It is hereby made the duty of the attorney general to prosecute any action brought by the department of state revenue in such cases. *(Formerly: Acts 1927, c.25, s.2.) As amended by Acts 1982, P.L.154, SEC.58; P.L.35-1983, SEC.3; P.L.7-1987, SEC.121; P.L.8-1993, SEC.383.*

IC 25-16-1-3

License fee

Sec. 3. A fee of one hundred fifty dollars (\$150) shall be paid annually for each license granted under the provisions of this chapter. *(Formerly: Acts 1927, c.25, s.3.) As amended by Acts 1981, P.L.223, SEC.2.*

IC 25-16-1-4

Duration of license; renewal; notice of refusal to renew

Sec. 4. Every license, unless previously revoked, shall remain in force until one (1) year after its issue, and every employment agency shall, upon payment of the amount of the license fee required, and the filing of a new bond, have issued to it a license for the ensuing year, unless the department of state revenue then gives written notice to the agency:

- (1) that it intends to refuse to renew the license for reasons stated in this chapter; and
- (2) that the license will remain in effect pending an appeal, if any, under IC 4-21.5.

(Formerly: Acts 1927, c.25, s.4.) As amended by P.L.35-1983, SEC.4; P.L.7-1987, SEC.122.

IC 25-16-1-5

Application for license

Sec. 5. Every applicant for a license shall file with the department of state revenue a written application, stating the name and address of the applicant, the name of the street and the number of the building in which the employment agency is to be maintained, the name of the person who is to have the general management of the office, the name under which the business of the office is to be carried on, and the business or occupation engaged in by the applicant for at least five (5) years immediately preceding the date of the application. Such applicant shall give as reference the names and addresses of at least three (3) persons of reputed business or professional integrity, located in the city or town where such applicant intends to conduct his business. The applicant shall be rejected if the department of state revenue finds that the applicant is not of good moral or business integrity, or when the premises for conducting the business of an employment agent are found upon investigation to be unfit for such use, or if there is any good and sufficient reason within the meaning and purpose of this chapter for rejecting such application. No license will be granted to any person whose license has been revoked within a period of three (3) years next preceding the date of such application. Each application shall be granted or refused within thirty (30) days from date of filing.

(Formerly: Acts 1927, c.25, s.5.) As amended by Acts 1982, P.L.154, SEC.59.

IC 25-16-1-6

Filing fee schedule, forms, and contracts; changes

Sec. 6. (a) Each applicant for a license shall file with his application, a schedule of fees, charges, and commissions which he expects to charge and collect for his service, together with a copy of all forms and contracts to be used in the operation of the agency.

(b) Such schedule of fees, charges, and commissions may thereafter be changed by filing an amended or supplemental schedule showing such fees, charges, and commissions with the department of state revenue at least thirty (30) days before the date provided for same to become effective. Any change in forms and contracts must also be filed with the department of state revenue at least thirty (30) days before the date provided for same to become effective.

(c) Schedule of fees, charges, and commissions to be charged shall be posted in a conspicuous place in the office of such agency. It shall be unlawful for any employment agent to charge, demand, collect, or receive a greater compensation for any service performed by him than is specified in such schedule filed with the department of state revenue.

(Formerly: Acts 1927, c.25, s.6.) As amended by P.L.28-1988, SEC.74.

IC 25-16-1-7

Recovery of fees by job applicant

Sec. 7. No agency shall send out any applicant, or collect any fee from any applicant without first having obtained a bona fide order for such employment. No charge nor advance fee of any kind shall be accepted until a position has been secured for the applicant by the agency or through the efforts of the agency. If any person fails, through no fault of his own, to obtain employment from the employer to whom he has been referred by an employment agent, or if, after having been engaged by an employer, such person is not permitted by said employer to enter upon the employment he was sent to perform, the whole amount paid by such person to the employment agent as a fee shall be refunded to him on demand. If such applicant shall have obtained a position or employment through such licensed agency, and shall voluntarily leave or abandon such position or employment, and without reasonable cause, he shall be entitled to receive no part of the fee paid by the applicant to the agency.

(Formerly: Acts 1927, c.25, s.7.)

IC 25-16-1-8

Receipts for payments made by job applicants; contents

Sec. 8. (a) For all payments made by any applicant for employment to any employment agency, there shall be given a receipt, on the back of which shall be printed in readable form in the English language: "No charge nor advance fee of any kind shall be accepted until a position has been secured for the applicant by the agency or through the efforts of the agency. In case any employer fails to accept an applicant or person obtained by any agency acting as the agent of such employer, then the licensed agency shall repay and return to said applicant all of any payments made by said

applicant to said agency."

(b) On the front of such receipt there shall be printed the words, "Read the law on the back of the receipt." All receipts shall also have printed on the back thereof: "This agency is licensed by the department of state revenue, State Capitol, Indianapolis, Indiana." (Formerly: Acts 1927, c.25, s.8.) As amended by P.L.28-1988, SEC.75.

IC 25-16-1-9

Employment agency records; maintenance; inspection

Sec. 9. (a) Every licensed agency shall keep a record for two (2) years of:

- (1) every person referred or placed for employment, including the date the person was referred or placed in employment, the person's name, address, age, nativity, sex, color, and trade, occupation, or profession;
- (2) the amount of the fee received and rate of wages agreed upon; and
- (3) the name and address of the person, firm, limited liability company, or corporation with whom any of the applicants have been placed.

(b) The department of revenue may inspect the records of an agency at any time.

(Formerly: Acts 1927, c.25, s.9.) As amended by P.L.35-1983, SEC.5; P.L.8-1993, SEC.384.

IC 25-16-1-10

Disposition of fees received

Sec. 10. All fees received by the department of state revenue under this chapter shall be paid into the state treasury by the department.

(Formerly: Acts 1927, c.25, s.10.) As amended by Acts 1979, P.L.17, SEC.45; P.L.28-1988, SEC.76.

IC 25-16-1-11

Employment agency defined; exceptions

Sec. 11. (a) The term "employment agency", as used in this chapter, means any person, firm, limited liability company, or corporation, who for hire or with a view to profit, shall undertake or offer to secure employment or help through the medium of card, circular, pamphlet, or any medium whatsoever, or through the display of a sign or bulletin, offer to secure employment or help, or give information as to where employment or help may be secured.

(b) Nothing in this chapter shall apply to the business and vocation of babysitting.

(c) Nothing in this chapter shall apply to charitable and benevolent organizations and associations approved by the division of family resources. All charitable and benevolent organizations and associations approved by the division of family resources shall, before being authorized to conduct such employment agency or department, secure a permit from the department of state revenue by

filing an application giving such information as may be required. No charge shall be made for the issuance of such permit, which may be revoked on the same terms as a license is revocable.

(Formerly: Acts 1927, c.25, s.11; Acts 1951, c.292, s.1.) As amended by P.L.28-1988, SEC.77; P.L.2-1992, SEC.774; P.L.8-1993, SEC.385; P.L.145-2006, SEC.160.

IC 25-16-1-12

Referring job applicant to place where strike or lockout exists

Sec. 12. No employment agency shall refer any applicant to any place for a position where a strike or lockout is known to exist without notifying the applicant of such condition.

(Formerly: Acts 1927, c.25, s.12.)

IC 25-16-1-13

Fee splitting with employer

Sec. 13. No person conducting or connected with or acting as agent for an employment agency shall make any arrangements with any employer or his agents or employees to secure the discharge of any employee; nor shall any employment agent or any one in his employ or representing him divide or offer to divide or share, directly or indirectly, any fee, charge or compensation received from any employee with any employer or person in any way connected with the business thereof.

(Formerly: Acts 1927, c.25, s.13.)

IC 25-16-1-14

Sending job applicant to house of ill fame or assignation; securing discharge of employee

Sec. 14. It shall be unlawful for any employment agency to send any person to any place of bad repute, house of ill fame or assignation, or place of amusement kept for immoral purposes, or any other place (known) to be of questionable character or ill repute, or for the purpose of securing a position for any applicants therein. It shall be unlawful for any employment agency to circulate, publish, record or issue any report or information to cause the discharge of any person employed in any legitimate service.

(Formerly: Acts 1927, c.25, s.14.)

IC 25-16-1-15

Refund of fee in event of nonexistence of job opening

Sec. 15. If it shall appear that no employment of the kind applied for existed at the place where any applicant was directed, said licensed agency shall refund to such applicant, within five (5) days after demand, any sum paid by said applicant for transportation and other expense in going to and returning from said place and all fees paid by said applicant to such agency.

(Formerly: Acts 1927, c.25, s.15.)

IC 25-16-1-16

False representations

Sec. 16. No agency shall publish, or cause to be published, or circulate any false or fraudulent or misleading notice, advertisement, or statement; or give any false information or make any false representation or promise concerning work or employment or help, to any one who shall register for help or employment, and no such agency shall make any false entry in any book, record or register kept by it in connection with its business.

(Formerly: Acts 1927, c.25, s.16.)

IC 25-16-1-17**Inspection; power of arrest**

Sec. 17. For the purpose of enforcing this chapter and the rules and regulations issued thereunder, the department of state revenue, or any of its duly authorized agents, may enter any employment agency or place of business of any employment agent and inspect the register, books, cards or other records of such employment agent. The department or any of its duly authorized agents, shall have the power and authority of sheriffs, and other peace officers, to make arrests for violations of the provisions of this chapter and to serve any process or notice throughout the state.

(Formerly: Acts 1927, c.25, s.17.) As amended by Acts 1982, P.L.154, SEC.60.

IC 25-16-1-18**Violations; enforcement of chapter**

Sec. 18. A person who violates this chapter commits a Class B misdemeanor. The Indiana department of state revenue shall enforce this chapter and institute criminal or civil proceedings whenever informed of any violation of it. Upon instituting proceedings, the name of the department shall be entered upon the docket, and upon conviction a fee of ten dollars (\$10.00) shall be allowed in favor of the department, which fee, when collected, shall be accounted for as other money received by the department under this chapter. The department may promulgate rules and regulations as necessary for the supervision of employment agencies.

(Formerly: Acts 1927, c.25, s.18.) As amended by Acts 1978, P.L.2, SEC.2533.