

CHAPTER 434

(Senate Bill 650)

AN ACT concerning

Employment Agencies – Bonding – Enforcement Authority

FOR the purpose of authorizing the Commissioner of Labor and Industry to initiate certain investigations and investigate certain complaints relating to alleged violations of certain bonding requirements by certain employment agencies; requiring the Commissioner to provide a certain notice; authorizing the Commissioner to impose certain penalties under certain circumstances; and generally relating to bonding requirements for employment agencies.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 9–101, 9–102, 9–201, and 9–401
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation

9–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Client” means an individual who seeks employment through an employment agency.
- (c) “Commissioner” means the Commissioner of Labor and Industry.
- (d) (1) “Employment agency” means a person who, for a fee:
 - (i) obtains, offers to obtain, or attempts to obtain:

1. an employee for a person who seeks an employee; or
 2. employment for a client;
- (ii) provides to a client information to enable the client to obtain employment;
- (iii) obtains, offers to obtain, or attempts to obtain employment or an engagement in connection with an entertainment, exhibition, or performance, including:

1. a ballet;
2. a circus;
3. a concert;
4. the legitimate theater;
5. modeling;
6. a motion picture;
7. an opera;
8. a phonograph recording;
9. the radio;
10. a transcription;
11. television;
12. the variety field; or
13. vaudeville; or

(iv) 1. obtains, offers to obtain, or attempts to obtain an alien labor certification or immigrant visa for an individual; and

2. participates directly or indirectly in the recruitment or supply of an individual who resides outside of the continental United States for employment in the continental United States.

(2) "Employment agency" does not include a person who merely:

- (i) conducts a business that directly employs individuals to provide part-time or temporary services to another person;
- (ii) as a lawyer, directly obtains an immigrant visa for an individual;
- (iii) conducts a business that:
 - 1. receives a fee that is paid wholly by an employer;
 - 2. does not collect money from an individual seeking employment; and
 - 3. does not require an individual seeking employment to make a contract; or
- (iv) operates a nursing referral service agency that is licensed under Title 19, Subtitle 4B of the Health – General Article.

9–102.

This title does not apply to:

- (1) a charitable, educational, fraternal, or religious organization that does not charge a fee for its services other than ordinary dues for membership;
- (2) a labor organization while obtaining or attempting to obtain employment for a member of the organization; or
- (3) an organization of employers while obtaining or attempting to obtain help for a member of the organization.

9–201.

The Commissioner may delegate any power or duty of the Commissioner under this title.

9–301.

- (a) An employment agency shall submit to the Commissioner a penal bond.
- (b) The bond shall:
 - (1) run to the State;
 - (2) be in the amount of \$7,000;

(3) be signed by an individual authorized to do so by the employment agency as principal and by a surety company authorized to do business in the State as surety; and

(4) be conditioned that the employment agency will comply with this title and will pay to any person all damages caused by deceit, fraud, misrepresentation, or misstatement of the employment agency or an agent or employee of the employment agency.

(C) TO ENSURE THAT EACH EMPLOYMENT AGENCY SUBMITS THE PENAL BOND IN ACCORDANCE WITH THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER MAY INITIATE AN INVESTIGATION OR INVESTIGATE A COMPLAINT THAT AN EMPLOYMENT AGENCY HAS FAILED TO SUBMIT A PENAL BOND.

(D) IF, AFTER INVESTIGATION, THE COMMISSIONER FINDS THAT AN EMPLOYMENT AGENCY HAS FAILED TO SUBMIT A PENAL BOND AS REQUIRED BY THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE THAT DIRECTS THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY, WITHIN 15 DAYS AFTER RECEIPT OF THE NOTICE:

(1) TO SUBMIT THE REQUIRED BOND; OR

(2) TO SHOW WRITTEN CAUSE WHY THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY IS NOT REQUIRED TO COMPLY WITH THIS ~~SUBTITLE~~ SECTION.

(E) (1) IF THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY COMPLIES WITH THE REQUIREMENT TO SUBMIT A BOND OR OTHERWISE SUBMITS A TIMELY RESPONSE, THE COMMISSIONER MAY:

(I) TERMINATE PROCEEDINGS AGAINST THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY; OR

(II) SCHEDULE A HEARING AND, BY CERTIFIED MAIL, GIVE THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY WRITTEN NOTICE OF THE DATE, PLACE, AND TIME OF THE HEARING.

(2) IF THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY FAILS TO COMPLY WITH A LAWFUL ORDER OF THE COMMISSIONER OR FAILS TO SUBMIT A TIMELY RESPONSE, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN \$500 AND NOT MORE THAN \$1,000 FOR EACH FAILURE TO COMPLY WITH THE ORDER OR FAILURE TO SUBMIT A TIMELY REPORT.

(F) IF AFTER A HEARING, THE COMMISSIONER FINDS THAT THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY HAS VIOLATED THE PROVISIONS OF THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN \$500 AND NOT MORE THAN \$1,000 FOR EACH VIOLATION OF THIS ~~SUBTITLE~~ SECTION.

9-401.

A person who violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.