

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1162  
 SPONSOR: Senator Futch  
 SUBJECT: Investigative & Security Services  
 DATE: January 24, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaccaro	Caldwell	RI	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill requires that applicants for firearms licenses within the private investigative and security professions under ch. 493, F.S., if they are not U.S. citizens, must submit proof to the Department of State that they have been granted permanent legal resident alien status by the U.S. Immigration and Naturalization Service (INS). Federal law prohibits aliens who do not have such status from possessing firearms pursuant to 18 U.S.C. 922. The bill requires that licensees, if they are not U.S. citizens, and do not carry firearms, must provide proof of current employment authorized by INS. The bill also substitutes the term “recovery” services for the term “repossession” services addressed under part IV of ch. 493, F.S., and provides that applicants for recovery agent licenses may obtain required education through correspondence courses and distance education programs. The bill also revises application and licensure requirements, revises the Department of State’s applicant examination requirements, increases the amount for administrative fines issued by the department, and makes several conforming and technical changes.

This bill substantially amends the following sections of the Florida Statutes: 493.6105, 493.6106, 493.6108, 493.6111, 493.6113, 493.6115, 493.6118, 493.6201, 493.6401, 493.6402, 493.6403, 493.6404, 493.6405, and 493.6406.

This bill reenacts the following sections of the Florida Statutes: 493.6121 and 790.25.

## II. Present Situation:

Regulation of private investigative services, security services, and repossession services is governed by parts II, III, and IV of ch. 493, F.S. General provisions regarding regulation are set forth in part I of ch. 493, F.S. The Florida Department of State (department) provides regulation

through its Division of Licensing. Each of the above-mentioned professions are divided into various licensure classes including: agency, branch office, manager, school, instructor, and intern. Each of the three professions also requires licensure for the individual private investigator, security officer, and recovery agent. Part III of ch. 493, F.S., does not provide for security officer intern licenses. Specific provisions of ch. 493, F.S., are discussed below.

### **Initial Application**

Section 493.6105, F.S., sets forth requirements for initial licensure application for investigative, security, and repossession services. In addition to basic background information such as name, age, date of birth, and social security or alien registration number, the applicant is required to provide a statement of any criminal convictions, and one or two passport-type color photos, depending upon the license sought. The statute also requires 28 hours of firearms training for those applying to carry firearms (Class "G" license). Firearms instructor applicants (Class "K" license) are required to provide a firearms instructor certificate from one of the following: the Florida Criminal Justice Standards and Training Commission; the National Rifle Association; or a federal, state, county, or municipal police academy in the United States. Section 493.6115, F.S., provides that only licensees in the private investigative and security professions are authorized to obtain Class G licenses.

### **License Requirements and Posting**

Section 493.6106, F.S., requires that all licensees be U.S. citizens or have been granted authorization to seek employment by the U.S. Immigration and Naturalization Service (INS). The statute also requires that each agency maintain at least one physical location in Florida from which business is conducted. Agencies are required to provide notices of address change to the department. Additionally, agency, branch office, and school licensees are required to conspicuously post their license along with notice of being regulated by the department.

### **Applicant Investigation by Department**

Section 493.6108, F.S., authorizes the department to investigate all applicants by examination of fingerprint and police records. If a set of legible fingerprints cannot be obtained because of a physical condition, as attested to by a fingerprint technician or physician, the department may rely upon a criminal-history record check under the applicant's name conducted by the Florida department of Law Enforcement (FDLE) and the FBI.

### **Disciplinary Action**

Section 493.6118, F.S., authorizes the department to take disciplinary action against all licensees and applicants for violations set forth in ch. 493, F.S. The department may deny applications and renewals, issue reprimands, impose administrative fines up to \$1,000 for every count or separate offense, place licensees on probation, and suspend or revoke licenses.

### **Private Investigator Licensees**

Section 493.6201, F.S., authorizes private investigators and interns (Class "C" and "CC") to perform bodyguard services without obtaining private security officer licenses (Class "D").

### **Repossession Services**

Part IV or ch. 493, F.S., governs regulation of repossession services-including agency and branch offices, individual agents and interns, and schools and training facilities-by the department.

Individuals who perform repossession services are licensed as “recovery agents.” Part IV of ch. 493, F.S., sets forth licensure classification, fee and licensure requirements, and specifies training requirements. Specifically, s. 493.6401, F.S., requires a Class “RS” license for any person operating a repossession school or training facility. Section 493.6403, F.S., provides that all applicants for a recovery agent or intern license (Class “E” and “EE”) who have applied after October 1, 1994, must receive 40 hours of professional training from an “RS”-licensed school or training facility.

#### **Enforcement**

Section 493.6121, F.S., authorizes the department to take appropriate enforcement action under s. 493.6118, F.S.

#### **Other Issues**

Section 790.053, F.S., authorizes investigators of the public defenders’ offices and investigators employed by the capital collateral representative to own and carry firearms, if those investigators, in part, have met the department’s investigative requirements under s. 493.6108(1)(a), F.S.

### **III. Effect of Proposed Changes:**

**Section 1** amends the title of ch. 493, F.S., to rename “repossession” services as “recovery” services.

**Section 2** amends s. 493.6105, F.S., to require that in addition to providing a statement of all convictions, an initial applicant must provide a list of any arrests resulting in conviction or for which adjudication was withheld, and a certified copy of the final disposition. The bill also limits the photo requirement to one photo per any applicant. The most significant change is that the bill requires that firearms and firearms instructor applicants (Class “G” and Class “K”) who are not citizens of the United States must submit documentation from the U.S. Immigration and Naturalization Service proving permanent legal resident alien status, including proof of residing in the U.S. for at least 90 consecutive days prior to the date of submitting application. This change conforms to federal requirements set forth in 18 U.S.C. 922. Finally the bill makes proof of certification for Class “K” certification more stringent. A certificate from the Florida Criminal Justice Standards and Training Commission must be accompanied by confirmation that the applicant is authorized to provide firearms instruction. The bill also limits acceptable law enforcement instruction certificates to federal law enforcement agencies and the U.S. Armed Forces.

**Section 3** amends s. 493.6106, F.S., to require that non-U.S.-citizen licensees be permanent legal resident aliens or have proof of current employment authorization from INS. Class “G” and “K” (firearms and firearms instructor) licensees, however, are limited to permanent legal resident alien status. The bills also extends licensee posting requirements to correspondence schools, distance education programs, and training facilities. As discussed under Section VI, however, current law does not require a specific license for correspondence schools and distance education programs, nor does the bill provide for such.

**Section 4** amends s. 493.6108, F.S., to limit the department's reliance on criminal-history record checks of applicants to those performed by the FDLE.

**Sections 5-7** make technical and conforming changes to ss. 493.6111, 493.6113, and 493.6115, F.S.

**Section 8** amends s. 493.6118, F.S., to authorize the department to seek administrative fines up to \$5,000 for violations of ch. 493. F.S.

**Section 9** amends s. 493.6201, F.S. to provide that bodyguard service performed by private investigators and interns (Class "C" and "CC") does not count toward experience required to be a private investigative agency manager or a private investigator.

**Section 10** amends the title of part IV of ch. 493, F.S., to rename "repossession services" as "recovery services."

**Sections 11** amends s. 493.6401, F.S., to include correspondence courses and distance learning programs within the type of training that may be provided by licensed schools and training facilities, and to make conforming changes. The statute is also amended to provide that recovery agent and intern applicants who are denied licensure are not required to retake the required 40 hours of training if denial was not based upon insufficient training. Those persons whose licenses have been expired for over 90 days are also not required to retake the training. Persons whose licenses are revoked, however, must retake the training.

**Section 12** amends s. 493.6402, F.S., to make conforming changes.

**Section 13** amends 493.6403, F.S., to provide that Class "E" and "EE" applicants may complete their training by correspondence courses and distance learning programs, and makes conforming changes.

**Sections 14-16** make conforming changes to ss. 493.6404, 493.6405, and 493.6406, F.S.

**Section 17** reenacts s. 493.6121, F.S., to incorporate the amendment to s. 493.6118, F.S., regarding the department's authorization to seek administrative fines up to \$5,000 for violations of ch. 493. F.S.

**Section 18** reenacts s. 790.25, F.S., to incorporate the amendment to s. 493.6108, F.S., regarding the department's authorization to investigate applicants.

**Section 19** provides that the bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

D. None

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

Section 3 of the bill makes references to correspondence school and distance education program licenses within s. 493.6106(2), F.S. Presumably, the references are meant to be conforming changes; however, the current law and the bill provide no requirements for specific licenses for those forms of education. Correspondence courses and distance learning programs are merely options proposed by the bill for required education under part IV of ch. 493, F.S.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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