

1 AN ACT concerning collections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois State Collection Act of 1986 is  
5 amended by changing Section 2 as follows:

6 (30 ILCS 210/2) (from Ch. 15, par. 152)

7 Sec. 2. This Act applies to all accounts or claims owed to  
8 "State agencies", as that term is defined in the Illinois State  
9 Auditing Act, except that the debt collection and write-off  
10 provisions of this Act shall not apply to the Illinois State  
11 Scholarship Commission in the administration of its student  
12 loan programs nor to the Illinois circuit courts in the  
13 collection of unpaid court fines, forfeitures, fees, costs,  
14 penalties, assessments, surcharges, or restitution. To the  
15 extent that some other statute prescribes procedures for  
16 collection of particular types of accounts or claims owed to  
17 State agencies in conflict with the provisions of this Act,  
18 such other statute shall continue in full force and effect. The  
19 debt collection and write-off provisions of this Act may be  
20 utilized by the General Assembly, the Supreme Court and the  
21 several courts of this State, and the constitutionally elected  
22 State Officers, at their discretion. However reporting  
23 requirements established by the comptroller shall be followed  
24 by all State agencies. The provisions of this Act shall be  
25 utilized at all times by all departments, agencies, divisions,  
26 and offices under the jurisdiction of the Governor.

27 (Source: P.A. 85-814.)

28 Section 10. The Collection Agency Act is amended by  
29 changing Section 9 and by adding Section 8d as follows:

30 (225 ILCS 425/8d new)

1 (Section scheduled to be repealed on January 1, 2006)

2 Sec. 8d. Collection fees. At the time a past due account is  
3 forwarded to a third-party collector, units of Illinois State  
4 or local government or Illinois circuit courts may provide for  
5 the imposition of a collection fee added to any amounts past  
6 due. This collection fee shall be in addition to any other  
7 amounts owed to such units of State or local government or the  
8 Illinois circuit courts. The collection fee shall be collected  
9 under a contract and shall be in addition to any amounts due.  
10 The person owing the past due amount is liable for the  
11 collection fee provided for under this Section. The amount of  
12 the collection fee is the amount provided by the contract,  
13 whether a specified amount or an amount contingent on the  
14 amount collected, for compensation of the person with whom the  
15 contract is made and any additional court costs or attorney's  
16 fees incurred in collecting the amount owed to the State, units  
17 of local government or Illinois circuit courts.

18 (225 ILCS 425/9) (from Ch. 111, par. 2012)

19 (Section scheduled to be repealed on January 1, 2006)

20 Sec. 9. (a) The Department may refuse to issue or renew, or  
21 may revoke, suspend, place on probation, reprimand or take  
22 other disciplinary action as the Department may deem proper,  
23 including fines not to exceed \$1,000 per licensee per  
24 complaint, for any one or any combination of the following  
25 causes:

26 (1) Violations of this Act or of the rules promulgated  
27 hereunder.

28 (2) Conviction of the collection agency or the  
29 principals of the agency of any crime under the laws of any  
30 U.S. jurisdiction which is a felony, a misdemeanor an  
31 essential element of which is dishonesty, or of any crime  
32 which directly relates to the practice of the profession.

33 (3) Making any misrepresentation for the purpose of  
34 obtaining a license or certificate.

35 (4) Habitual or excessive use or addiction to alcohol,

1       narcotics, stimulants or any other chemical agent or drug  
2       which results in the inability to practice with reasonable  
3       judgment, skill, or safety by any of the principals of a  
4       collection agency.

5             (5) Discipline by another U.S. jurisdiction or foreign  
6       nation, if at least one of the grounds for the discipline  
7       is the same or substantially equivalent to those set forth  
8       in this Act.

9             (6) A finding by the Department that the licensee,  
10       after having his license placed on probationary status, has  
11       violated the terms of probation.

12            (7) Practicing or attempting to practice under a name  
13       other than the name as shown on his or her license or any  
14       other legally authorized name.

15            (8) A finding by the Federal Trade Commission that a  
16       licensee violated the Federal Fair Debt and Collection Act  
17       or its rules.

18            (9) Failure to file a return, or to pay the tax,  
19       penalty or interest shown in a filed return, or to pay any  
20       final assessment of tax, penalty or interest, as required  
21       by any tax Act administered by the Illinois Department of  
22       Revenue until such time as the requirements of any such tax  
23       Act are satisfied.

24            (10) Using or threatening to use force or violence to  
25       cause physical harm to a debtor, his family or his  
26       property.

27            (11) Threatening to instigate an arrest or criminal  
28       prosecution where no basis for a criminal complaint  
29       lawfully exists.

30            (12) Threatening the seizure, attachment or sale of a  
31       debtor's property where such action can only be taken  
32       pursuant to court order without disclosing that prior court  
33       proceedings are required.

34            (13) Disclosing or threatening to disclose information  
35       adversely affecting a debtor's reputation for credit  
36       worthiness with knowledge the information is false.

1           (14) Initiating or threatening to initiate  
2 communication with a debtor's employer unless there has  
3 been a default of the payment of the obligation for at  
4 least 30 days and at least 5 days prior written notice, to  
5 the last known address of the debtor, of the intention to  
6 communicate with the employer has been given to the  
7 employee, except as expressly permitted by law or court  
8 order.

9           (15) Communicating with the debtor or any member of the  
10 debtor's family at such a time of day or night and with  
11 such frequency as to constitute harassment of the debtor or  
12 any member of the debtor's family. For purposes of this  
13 Section the following conduct shall constitute harassment:

14           (A) Communicating with the debtor or any member of  
15 his or her family in connection with the collection of  
16 any debt without the prior consent of the debtor given  
17 directly to the debt collector, or the express  
18 permission of a court of competent jurisdiction, at any  
19 unusual time or place or a time or place known or which  
20 should be known to be inconvenient to the debtor. In  
21 the absence of knowledge of circumstances to the  
22 contrary, a debt collector shall assume that the  
23 convenient time for communicating with a consumer is  
24 after 8 o'clock a.m. and before 9 o'clock p.m. local  
25 time at the debtor's location.

26           (B) The threat of publication or publication of a  
27 list of consumers who allegedly refuse to pay debts,  
28 except to a consumer reporting agency.

29           (C) The threat of advertisement or advertisement  
30 for sale of any debt to coerce payment of the debt.

31           (D) Causing a telephone to ring or engaging any  
32 person in telephone conversation repeatedly or  
33 continuously with intent to annoy, abuse, or harass any  
34 person at the called number.

35           (16) Using profane, obscene or abusive language in  
36 communicating with a debtor, his or her family or others.

1 (17) Disclosing or threatening to disclose information  
2 relating to a debtor's indebtedness to any other person  
3 except where such other person has a legitimate business  
4 need for the information or except where such disclosure is  
5 regulated by law.

6 (18) Disclosing or threatening to disclose information  
7 concerning the existence of a debt which the debt collector  
8 knows to be reasonably disputed by the debtor without  
9 disclosing the fact that the debtor disputes the debt.

10 (19) Engaging in any conduct which the Director finds  
11 was intended to cause and did cause mental or physical  
12 illness to the debtor or his or her family.

13 (20) Attempting or threatening to enforce a right or  
14 remedy with knowledge or reason to know that the right or  
15 remedy does not exist.

16 (21) Failing to disclose to the debtor or his or her  
17 family the corporate, partnership or proprietary name, or  
18 other trade or business name, under which the debt  
19 collector is engaging in debt collections and which he or  
20 she is legally authorized to use.

21 (22) Using any form of communication which simulates  
22 legal or judicial process or which gives the appearance of  
23 being authorized, issued or approved by a governmental  
24 agency or official or by an attorney at law when it is not.

25 (23) Using any badge, uniform, or other indicia of any  
26 governmental agency or official except as authorized by  
27 law.

28 (24) Conducting business under any name or in any  
29 manner which suggests or implies that a debt collector is  
30 bonded if such collector is or is a branch of or is  
31 affiliated with any governmental agency or court if such  
32 collector is not.

33 (25) Failing to disclose, at the time of making any  
34 demand for payment, the name of the person to whom the  
35 claim is owed and at the request of the debtor, the address  
36 where payment is to be made and the address of the person

1 to whom the claim is owed.

2 (26) Misrepresenting the amount of the claim or debt  
3 alleged to be owed.

4 (27) Representing that an existing debt may be  
5 increased by the addition of attorney's fees,  
6 investigation fees or any other fees or charges when such  
7 fees or charges may not legally be added to the existing  
8 debt.

9 (28) Representing that the debt collector is an  
10 attorney at law or an agent for an attorney if he is not.

11 (29) Except as provided in Section 8d, collecting  
12 ~~Collecting~~ or attempting to collect any interest or other  
13 charge or fee in excess of the actual debt or claim unless  
14 such interest or other charge or fee is expressly  
15 authorized by the agreement creating the debt or claim  
16 unless expressly authorized by law or unless in a  
17 commercial transaction such interest or other charge or fee  
18 is expressly authorized in a subsequent agreement. If a  
19 contingency or hourly fee arrangement (i) is established  
20 under an agreement between a collection agency and a  
21 creditor to collect a debt and (ii) is paid by a debtor  
22 pursuant to a contract between the debtor and the creditor,  
23 then that fee arrangement does not violate this Section  
24 unless the fee is unreasonable. The Department shall  
25 determine what constitutes a reasonable collection fee.

26 (30) Communicating or threatening to communicate with  
27 a debtor when the debt collector is informed in writing by  
28 an attorney that the attorney represents the debtor  
29 concerning the claim, unless authorized by the attorney. If  
30 the attorney fails to respond within a reasonable period of  
31 time, the collector may communicate with the debtor. The  
32 collector may communicate with the debtor when the attorney  
33 gives his consent.

34 (31) Engaging in dishonorable, unethical, or  
35 unprofessional conduct of a character likely to deceive,  
36 defraud, or harm the public.

1           (b) The Department shall deny any license or renewal  
2 authorized by this Act to any person who has defaulted on an  
3 educational loan guaranteed by the Illinois State Scholarship  
4 Commission; however, the Department may issue a license or  
5 renewal if the person in default has established a satisfactory  
6 repayment record as determined by the Illinois State  
7 Scholarship Commission.

8           No debt collector while collecting or attempting to collect  
9 a debt shall engage in any of the Acts specified in this  
10 Section, each of which shall be unlawful practice.

11       (Source: P.A. 91-768, eff. 1-1-01.)