



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2602

Introduced 1/21/2010, by Sen. Heather Steans

SYNOPSIS AS INTRODUCED:

See Index

Amends the Structural Pest Control Act. Defines "person" to also mean any public school or any licensed day care center. Provides that only a person who is certified or licensed as a structural pest control technician by a contiguous state or the federal government may apply for reciprocal certification without an examination by the Department in those sub-categories or areas for which the applicant holds certification or licensure. Provides that the Department shall adopt rules for any examinations required for the proper administration of the Act, including any category or sub-category examination involving the use of general or restricted use pesticides and any examination which may be required under certain categories specified in the rules adopted by the Department of Agriculture in the Illinois Administrative Code. Provides that any fine that remains unpaid 60 days after receiving notice from the Department may be submitted to any other public or private agency for collection of the amounts owed plus any fees and costs incurred during the collection process (now, may only be submitted to the Attorney General's Office). Provides that only the Department of Public Health and any local health department shall not be required to pay any fees, nor shall the employees thereof engaged in pest control activities in their official capacity be required to pay any fees for examination, certification, or renewal of certification (now, the State, any agency thereof, or any local unit of government). Makes changes in provisions concerning definitions, license or registration renewal, renewal of technician certification, violations, notification, and penalty. Makes other changes. Effective immediately.

LRB096 16296 ASK 31554 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 5. The Structural Pest Control Act is amended by
5 changing Sections 3.03, 3.09, 3.11, 4, 5.01, 6, 7, 9, 10.3, 13,
6 21, 21.1, and 22 as follows:

7 (225 ILCS 235/3.03) (from Ch. 111 1/2, par. 2203.03)

8 (Section scheduled to be repealed on December 31, 2019)

9 Sec. 3.03. "Person" means any individual, group of
10 individuals, association, trust, partnership, corporation,
11 person doing business under an assumed name, the State of
12 Illinois, or department thereof, any other state-owned and
13 operated institution, public school, licensed day care center,
14 or any other entity.

15 (Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

16 (225 ILCS 235/3.09) (from Ch. 111 1/2, par. 2203.09)

17 (Section scheduled to be repealed on December 31, 2019)

18 Sec. 3.09. "Structural Pest Control" means and includes the
19 ~~on-site identification of an infestation in, on or under a~~
20 ~~structure or the use of any method or~~ device or the application
21 of any substance to prevent, repel, mitigate, curb, control, or
22 eradicate any pest in, on, ~~or~~ under, or within 10 feet of a

1 structure, or within a part of, or materials used in building,
2 a structure; the use of any pesticide, including insecticides,
3 fungicides and other wood treatment products, attractants,
4 repellents, rodenticides, fumigants, or mechanical devices for
5 preventing, controlling, eradicating, identifying, mitigating,
6 diminishing, or curbing insects, vermin, rats, mice, or other
7 pests in, on, ~~or~~ under, or within 10 feet of a structure, or
8 within a part of, or materials used in building, a structure;
9 vault fumigation and fumigation of box cars, trucks, ships,
10 airplanes, docks, warehouses, and common carriers or
11 soliciting to perform any of the foregoing functions.

12 (Source: P.A. 85-227; reenacted by P.A. 95-786, eff. 8-7-08.)

13 (225 ILCS 235/3.11) (from Ch. 111 1/2, par. 2203.11)

14 (Section scheduled to be repealed on December 31, 2019)

15 Sec. 3.11. "Commercial Structural Pest Control Business"
16 means any business in the course of which any person performs,
17 advertises, or contracts to perform structural pest control
18 services on property under the ownership or control of another
19 ~~in exchange for any consideration.~~

20 (Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

21 (225 ILCS 235/4) (from Ch. 111 1/2, par. 2204)

22 (Section scheduled to be repealed on December 31, 2019)

23 Sec. 4. Licensing and registration location requirements.

24 (a) It shall be unlawful for any person to engage in a

1 commercial structural pest control business at any location in
2 this State ~~after October 21, 1977, or within Illinois from any~~
3 location outside of this State, unless such person is licensed
4 by the Department. A person shall have a separate license for
5 each commercial structural pest control business location. ~~It~~
6 ~~shall also be unlawful for any person to engage in a commercial~~
7 ~~pest control business in Illinois from any location outside~~
8 ~~this State unless such person is licensed by this Department.~~
9 The licensee may use its state identification number in all
10 forms of advertising.

11 (b) It shall be unlawful for any person who owns or
12 operates a non-commercial structural pest control location to
13 engage in non-commercial structural pest control using
14 restricted pesticides in this State ~~after October 21, 1977,~~
15 unless registered as a non-commercial structural pest control
16 location by the Department.

17 (c) No person shall be licensed or registered as a
18 commercial or non-commercial structural pest control business
19 at any location without complying with the certification
20 requirements as prescribed in Section 5 of this Act.

21 (d) If a licensee or registrant changes its location of
22 operation during the year of issuance, the Department shall be
23 notified in writing of the new location within 15 days. The
24 license or registration shall accompany the notification along
25 with the fee as prescribed in Section 9 of this Act, be
26 ~~surrendered~~ and, upon receipt, a replacement will be issued by

1 ~~the Department for a fee of \$10.~~

2 (e) All licenses and registrations issued under this Act
3 shall expire on December 31 of the year issued, except that an
4 original license or registration issued after October 1 and
5 before December 31 shall expire on December 31 of the following
6 year. A license or registration may be renewed by filing with
7 the Department a completed renewal application form as
8 prescribed by rule, including payment of the fee as prescribed
9 in Section 9 of this Act, and may be postmarked no later than
10 the December 1 preceding the date of expiration. Applications
11 received by the Department that are postmarked after December 1
12 up to and including December 31 shall be accompanied by the
13 required late filing charge as prescribed in Section 9 of this
14 Act. License or registration applications that are postmarked
15 after December 31 will not be eligible for renewal ~~A license or~~
16 ~~registration may be renewed by making application on a form~~
17 ~~prescribed by the Department and by paying the fee required by~~
18 ~~this Act. Renewal applications shall be filed with the~~
19 ~~Department prior to December 1 of each year.~~

20 (f) No license or registration shall be transferable from
21 one person to another.

22 (g) No person shall be licensed as a commercial structural
23 pest control business location without complying with the
24 insurance requirements of Section 9 of this Act.

25 (Source: P.A. 83-825; reenacted by P.A. 95-786, eff. 8-7-08.)

1 (225 ILCS 235/5.01) (from Ch. 111 1/2, par. 2205.01)

2 (Section scheduled to be repealed on December 31, 2019)

3 Sec. 5.01. Reciprocity.

4 (a) Upon payment of the required fee as prescribed in
5 Section 9 of this Act, a person who is certified or licensed as
6 a structural pest control technician by a contiguous state or
7 the federal government may apply for reciprocal certification
8 without examination by the Department in those sub-categories
9 or areas for which the applicant holds certification or
10 licensure by the contiguous state or the federal government.

11 (b) In order to receive reciprocal certification under
12 subsection (a) of this Section, the requirements for the
13 certification or licensure by the contiguous state or the
14 federal government must have been, at the date of the
15 certification or licensure, substantially equivalent to the
16 requirements then in force in this State, as determined by the
17 Department. Upon the payment of the required fee, an applicant
18 who is certified in another state, may, without examination, be
19 granted a certificate as a certified structural pest control
20 technician by the Department in those sub-categories for which
21 he has been certified by another state, provided that the
22 Department finds that the requirements for certification of
23 structural pest control technicians in that state were, at the
24 date of certification, substantially equal to the requirements
25 then in force in this State and provided that the same
26 privilege of certification is similarly granted by said state

1 ~~to technicians certified by the State of Illinois.~~

2 (Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

3 (225 ILCS 235/6) (from Ch. 111 1/2, par. 2206)

4 (Section scheduled to be repealed on December 31, 2019)

5 Sec. 6. Renewal of technician certification ~~Certificate~~
6 ~~renewal~~).

7 (a) A certified technician's certificate shall be valid for
8 a period of 3 years expiring on December 31 of the third year,
9 except that an original certificate issued between October 1
10 and December 31 shall expire on December 31 of the third full
11 calendar year following issuance ~~and must be renewed by January~~
12 ~~1 of each third year.~~ A certificate may be renewed by
13 application upon a form prescribed by the Department, provided
14 that the certified technician furnishes the following:

15 (1) a renewal application filed with the Department
16 postmarked no later than December 1 preceding the date of
17 expiration;

18 (2) evidence attached to the renewal, or on file with
19 the Department, of acquiring, that he has attended during
20 the 3 year period, a minimum of 9 classroom hours, in
21 increments of 3 hours or more, of training at Department
22 approved pest control training seminars; and

23 (3) the required fee as prescribed in Section 9 of this
24 Act ~~and pays the fee required by this Act. Renewal~~
25 ~~applications shall be filed with the Department prior to~~

1 ~~December 1 preceding the date of expiration.~~

2 Applications received by the Department postmarked after
3 December 1 shall be accompanied by the required late filing
4 charge as prescribed in Section 9 of this Act.

5 (b) Certified technician's certificates are not
6 transferable from one person to another person, and no licensee
7 or registrant shall use the certificate of a certified
8 technician to secure or hold a license or registration unless
9 the holder of such certificate is actively engaged in the
10 direction of pest control operations of the licensee or
11 registrant.

12 (c) A certified technician who has not renewed his or her
13 certificate for a period of not more than one year after its
14 expiration may secure a renewal upon payment of the renewal fee
15 and ~~7~~ late filing charge and the furnishing of evidence of
16 training in accordance with item (2) of subsection (a) of this
17 Section ~~as may be required by the Department~~. If a technician
18 has not renewed his or her certificate for a period of more
19 than one year after its expiration, the technician ~~he~~ shall
20 file an original application for examination, pay all required
21 fees, which may include renewal, examination, and late filing
22 charges, and successfully pass the examination before his or
23 her certificate is renewed. Any individual who fails to renew a
24 certification by the date of expiration shall not perform any
25 pest control activities until the requirements of this Section
26 have been met and a certificate has been issued by the

1 Department.

2 (Source: P.A. 93-922, eff. 1-1-05; reenacted by P.A. 95-786,
3 eff. 8-7-08.)

4 (225 ILCS 235/7) (from Ch. 111 1/2, par. 2207)

5 (Section scheduled to be repealed on December 31, 2019)

6 Sec. 7. Written examination required~~†~~. The Department
7 shall adopt rules for any examinations required for the proper
8 administration of this Act, including any category or
9 sub-category examination involving the use of general or
10 restricted use pesticides and any examination which may be
11 required under Category 7, Industrial, Institutional,
12 Structural, and Health Related Pest Control, or Category 8,
13 Public Health Pest Control (excluding Mosquito Pest Control),
14 in the rules adopted by the Department of Agriculture in
15 Section 250.120 of Title 8 of the Illinois Administrative Code.
16 Applications for examination shall be in the form prescribed by
17 the Department, ~~and shall be~~ accompanied by the required fee as
18 prescribed in Section 9 of this Act, and received by the
19 Department at least 15 days prior to an examination. The
20 Department shall conduct written examinations at least 4 times
21 each year and may require a practical demonstration by each
22 applicant. The written examination shall be prepared from
23 suggested study materials.

24 ~~All applicants shall be tested and required to attain a~~
25 ~~passing grade on a General Standards examination which~~

1 ~~evaluates their general knowledge of label and labeling~~
2 ~~comprehension, safety, environment, equipment, application~~
3 ~~techniques, laws and regulations, and pests and pesticides.~~
4 ~~Applicants who pass the General Standards examination may also,~~
5 ~~if qualified, be examined in any one or more of the other~~
6 ~~sub categories in which they desire to use restricted~~
7 ~~pesticides:~~

8 ~~(a) Insects (excluding termites and other wood destroying~~
9 ~~organisms), rodents and other pests including those pests in~~
10 ~~food manufacturing, food processing, food storage and grain~~
11 ~~handling;~~

12 ~~(b) Termites and other wood destroying organisms;~~

13 ~~(c) Bird control;~~

14 ~~(d) Fumigation;~~

15 ~~(e) Food manufacturing, food processing and food storage~~
16 ~~facilities;~~

17 ~~(f) Institutional and multi unit residential housing pest~~
18 ~~control;~~

19 ~~(g) Public health pest control; and~~

20 ~~(h) Wood products pest control, which includes the~~
21 ~~application of restricted use wood treatment pesticides by~~
22 ~~individuals working for commercial wood treatment companies or~~
23 ~~non-commercial wood treatment plants using pressure, as well as~~
24 ~~nonpressure, treatment methods to control or prevent wood~~
25 ~~degradation by wood destroying organisms which include but are~~
26 ~~not limited to insects, and by fungi or bacteria which cause~~

1 ~~surface molding, surface staining, sap staining, brown rot,~~
2 ~~white rot and soft rot.~~

3 ~~An applicant who is examined and certified in~~
4 ~~sub categories (a), (b), (c), (d) and (h) shall be qualified to~~
5 ~~use restricted pesticides in performing structural pest~~
6 ~~control activities in commercial and non commercial structural~~
7 ~~pest control in those sub categories in which he has been~~
8 ~~certified.~~

9 ~~An applicant who is examined and certified in~~
10 ~~sub categories (e), (f), or (g) shall be permitted to apply~~
11 ~~restricted pesticides only to structures of the non-commercial~~
12 ~~structural pest control registrant of which he is an employee.~~

13 (Source: P.A. 85-227; reenacted by P.A. 95-786, eff. 8-7-08.)

14 (225 ILCS 235/9) (from Ch. 111 1/2, par. 2209)

15 (Section scheduled to be repealed on December 31, 2019)

16 Sec. 9. Fees and required insurance.

17 (a) The fees required by this Act are as follows:

18 (1) The fee for an original commercial structural pest
19 control business license is \$250; and the fee for the
20 renewal of that license is \$150.

21 (2) The fee for an original non-commercial structural
22 pest control business registration is \$200; and the fee for
23 the renewal of that registration is \$125.

24 (3) The fee for an application for examination as a
25 certified technician, including an original certificate,

1 is \$75; and the fee for the renewal of that certification
2 is \$75.

3 (4) The fee for an application for examination in
4 sub-categories not previously examined or for
5 reexamination as a certified technician in areas
6 previously failed is \$50.

7 (5) The fee for the replacement of a license,
8 registration, or certification is \$25.

9 (6) The late filing charge for any license,
10 registration, or certification is \$75.

11 (7) The fee for multiple copies of this Act and
12 regulations or for any category or sub-category specific
13 training materials is \$5 per copy.

14 ~~(a) For an original license and each renewal — \$100.~~

15 ~~(b) For an original registration and each renewal —~~
16 ~~\$50.~~

17 ~~(c) For each certificate renewal — \$40.~~

18 ~~(d) For an application for examination including an~~
19 ~~original certificate — \$40.~~

20 ~~(e) Any person who fails to file a renewal application~~
21 ~~by the date of expiration of a license, certification or~~
22 ~~registration shall be assessed a late filing charge of \$75.~~

23 ~~(f) For duplicate copies of certificates, licenses or~~
24 ~~registrations — \$10.~~

25 All fees shall be paid by check or money order. Any fee
26 required by this Act is not refundable in the event that the

1 original application or application for renewal is denied.

2 (b) Every application for an original commercial
3 structural pest control business location license shall be
4 accompanied by a certificate of insurance issued by an
5 insurance company authorized to do business in the State of
6 Illinois or by a risk retention or purchasing group formed
7 pursuant to the federal Liability Risk Retention Act of 1986,
8 which provides primary, first dollar public liability coverage
9 of the applicant or licensee for personal injuries for not less
10 than \$100,000 per person, or \$300,000 per occurrence, and, in
11 addition, for not less than \$50,000 per occurrence for property
12 damage, resulting from structural pest control. The insurance
13 policy shall be in effect at all times during the license year
14 and a new certificate of insurance shall be filed with the
15 Department within 30 days after the renewal of the insurance
16 policy. Each application for renewal of a commercial structural
17 pest control location license shall also include a certificate
18 of insurance as detailed above unless a valid certificate of
19 insurance is already on file with the Department. Applicants
20 for registration or registration renewal shall not be required
21 to provide evidence of public liability insurance coverage.

22 All administrative civil fines and fees collected pursuant
23 to this Act shall be deposited into the Pesticide Control Fund
24 established pursuant to the Illinois Pesticide Act. The amount
25 annually collected as administrative civil fines and fees shall
26 be appropriated by the General Assembly to the Department for

1 the purposes of conducting a public education program on the
2 proper use of pesticides and for other activities related to
3 enforcement of this Act and the Illinois Pesticide Act.

4 (Source: P.A. 87-703; reenacted by P.A. 95-786, eff. 8-7-08.)

5 (225 ILCS 235/10.3)

6 (Section scheduled to be repealed on December 31, 2019)

7 Sec. 10.3. Notification. School districts and day care
8 centers must maintain a registry of parents and guardians of
9 students and employees who have registered to receive written
10 or telephonic notification prior to application of pesticides
11 to school property or day care centers or provide written or
12 telephonic notification to all parents and guardians of
13 students before such pesticide application. Written
14 notification may be included in newsletters, bulletins,
15 calendars, or other correspondence currently published by the
16 school district or day care center. The written or telephonic
17 notification must be given at least 2 business days before
18 application of the pesticide application and should identify
19 the intended date of the application of the pesticide and the
20 name and telephone contact number for the school or day care
21 center personnel responsible for the pesticide application
22 program. Prior ~~written~~ notice shall not be required if there is
23 an imminent threat to health or property. If such a situation
24 arises, the appropriate school or day care center personnel
25 must sign a statement describing the circumstances that gave

1 rise to the health threat and ensure that written or telephonic
2 notice is provided as soon as practicable. For purposes of this
3 Section, pesticides subject to notification requirements shall
4 not include (i) an antimicrobial agent, such as disinfectant,
5 sanitizer, or deodorizer, or (ii) insecticide baits and
6 rodenticide baits.

7 (Source: P.A. 93-381, eff. 7-1-04; reenacted by P.A. 95-786,
8 eff. 8-7-08.)

9 (225 ILCS 235/13) (from Ch. 111 1/2, par. 2213)

10 (Section scheduled to be repealed on December 31, 2019)

11 Sec. 13. Violations of the Act. It is a violation of this
12 Act and the Department may suspend, revoke, or refuse to issue
13 or renew any certificate, registration, or license, in
14 accordance with Section 14 of this Act, upon proof of any of
15 the following:

16 (a) Violation of this Act or any rule or regulation
17 promulgated hereunder.

18 (b) Conviction of a certified technician, registrant, or
19 licensee of a violation of any provision of this Act or of pest
20 control laws in any other state, or any other laws or rules and
21 regulations adopted thereto relating to pesticides.

22 (c) Knowingly making false or fraudulent claims,
23 misrepresenting the effects of materials or methods or failing
24 to use methods or materials suitable for structural pest
25 control.

1 (d) Performing structural pest control in a careless or
2 negligent manner so as to be detrimental to health.

3 (e) Failure to supply within a reasonable time, upon
4 request from the Department or its authorized representative,
5 true information regarding methods and materials used, work
6 performed, or other information essential to the
7 administration of this Act.

8 (f) Fraudulent advertising or solicitations relating to
9 structural pest control.

10 (g) Aiding or abetting a person to evade any provision of
11 this Act, conspiring with any person to evade provisions of
12 this Act or allowing a license, permit, certification, or
13 registration to be used by another person.

14 (h) Impersonating any federal, state, county, or city
15 official.

16 (i) Performing structural pest control, utilizing, or
17 authorizing the use or sale of, pesticides which are in
18 violation of the FIFRA, or the Illinois Pesticide Act.

19 (j) Failing to comply with a written Department notice or
20 lawful order of the Director.

21 (Source: P.A. 85-177; reenacted by P.A. 95-786, eff. 8-7-08.)

22 (225 ILCS 235/21) (from Ch. 111 1/2, par. 2221)

23 (Section scheduled to be repealed on December 31, 2019)

24 Sec. 21. Penalty. Any person who violates this Act or any
25 rule or regulation adopted by the Department, or who violates

1 any determination or order of the Department under this Act
2 shall be guilty of a Class A misdemeanor and shall be fined a
3 sum of not more less than \$2,500, serve a jail term of up to 1
4 day less than 1 year in jail, or both \$100.

5 Each day's violation constitutes a separate offense. The
6 State's Attorney of the county in which the violation occurred
7 or the Attorney General shall bring such actions in the name of
8 the people of the State of Illinois.

9 (Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

10 (225 ILCS 235/21.1) (from Ch. 111 1/2, par. 2221.1)

11 (Section scheduled to be repealed on December 31, 2019)

12 Sec. 21.1. Administrative Civil Fines. The Department is
13 empowered to assess administrative civil fines in accordance
14 with Section 15 of this Act against a licensee, registrant ~~or~~
15 certified technician, person, public school, licensed day care
16 center, or other entity for violations of this Act or its rules
17 and regulations. These fines shall be established by the
18 Department by rule and may be assessed in addition to, or in
19 lieu of, license, registration, or certification suspensions
20 and revocations. ~~Rules to implement this Section shall be~~
21 ~~proposed by the Department by January 1, 1993.~~

22 ~~The amount of these fines shall be determined by the~~
23 ~~hearing officer upon determination that a violation or~~
24 ~~violations of the Act or rules has occurred.~~ Any fine assessed
25 and not paid within 60 days after receiving ~~of~~ notice from the

1 Department may be submitted to the Attorney General's Office,
2 or any other public or private agency, for collection of the
3 amounts owed plus any fees and costs incurred during the
4 collection process. Failure to pay a fine shall also be grounds
5 for immediate suspension or revocation of a license,
6 registration, or certification issued under this Act.

7 (Source: P.A. 87-703; reenacted by P.A. 95-786, eff. 8-7-08.)

8 (225 ILCS 235/22) (from Ch. 111 1/2, par. 2222)

9 (Section scheduled to be repealed on December 31, 2019)

10 Sec. 22. Scope of Act~~†~~. The provisions of this Act apply to
11 any structural pest control operations performed by the State
12 or agency thereof. However, the Department of Public Health
13 ~~State or agency thereof~~ or any local health department unit of
14 ~~local government~~ shall not be required to pay any fees, nor
15 shall the employees thereof engaged in pest control activities
16 in their official capacity be required to pay any fees for
17 examination, certification, or renewal of certification in the
18 ~~sub categories of either (f) or (g) specified in Section 7 of~~
19 ~~this Act.~~

20 This Act does not apply to any person certified by the
21 Illinois Department of Agriculture to use restricted
22 pesticides in structures on his own individual property.

23 (Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

24 (225 ILCS 235/5.02 rep.)

1 Section 10. The Structural Pest Control Act is amended by
2 repealing Section 5.02.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.

1

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2

Statutes amended in order of appearance

3

225 ILCS 235/3.03

from Ch. 111 1/2, par. 2203.03

4

225 ILCS 235/3.09

from Ch. 111 1/2, par. 2203.09

5

225 ILCS 235/3.11

from Ch. 111 1/2, par. 2203.11

6

225 ILCS 235/4

from Ch. 111 1/2, par. 2204

7

225 ILCS 235/5.01

from Ch. 111 1/2, par. 2205.01

8

225 ILCS 235/6

from Ch. 111 1/2, par. 2206

9

225 ILCS 235/7

from Ch. 111 1/2, par. 2207

10

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11

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12

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from Ch. 111 1/2, par. 2213

13

225 ILCS 235/21

from Ch. 111 1/2, par. 2221

14

225 ILCS 235/21.1

from Ch. 111 1/2, par. 2221.1

15

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16

225 ILCS 235/5.02 rep.