



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1394

by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

See Index

Amends the Detection of Deception Examiners Act and the Regulatory Sunset Act. Permits the Department to disclose information and documents related to an examination or investigation of a licensee or applicant only to law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Provides that any formal complaint against a licensee filed with the Department or an order issued by the Department against a licensee or applicant shall be a public record. Allows the Department to take action, including imposing fines not to exceed \$10,000 per violation, if the individual meets the requirements for grounds for disciplinary action. Grants the Department authority to petition the Attorney General or local State's Attorney office where a violation occurs to enjoin the violation or order enforcement compliance with this Act. Provides that, on a showing of a possible violation, the Department may compel an applicant or a licensee to submit to a physical or mental examination. Provides the Department the authority to issue subpoenas, administer oaths at Department hearings, or petition the circuit courts to order the attendance and testimony of witnesses. Makes other changes. Amends the Regulatory Sunset Act to extend the Detection of Deception Examiners Act from January 1, 2012 to January 1, 2022. Effective immediately.

LRB097 06453 CEL 46535 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 Regulatory Sunset Act is amended by changing
5 Section 4.22 and by adding Section 4.32 as follows:

6 (5 ILCS 80/4.22)

7 Sec. 4.22. Acts repealed on January 1, 2012. The following
8 Acts are repealed on January 1, 2012:

9 ~~The Detection of Deception Examiners Act.~~

10 The Home Inspector License Act.

11 The Interior Design Title Act.

12 The Massage Licensing Act.

13 The Petroleum Equipment Contractors Licensing Act.

14 The Professional Boxing Act.

15 The Real Estate Appraiser Licensing Act of 2002.

16 The Water Well and Pump Installation Contractor's License
17 Act.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 (5 ILCS 80/4.32 new)

20 Sec. 4.32. Act repealed on January 1, 2022. The following
21 Act is repealed on January 1, 2022:

22 The Detection of Deception Examiners Act.

1 Section 10. The Detection of Deception Examiners Act is
2 amended by changing Sections 1, 3, 4, 4.5, 7.2, 7.3, 8, 10.1,
3 11, 13, 14, 15, 17, 18, 19, 20, 22, 24, 25, 26, 26.1, 28, 29,
4 and 30 and by adding Sections 10, 18.3, and 26.5 as follows:

5 (225 ILCS 430/1) (from Ch. 111, par. 2401)

6 (Section scheduled to be repealed on January 1, 2012)

7 Sec. 1. Definitions. As used in this Act, unless the
8 context otherwise requires:

9 "Address of Record" means the designated address recorded
10 by the Department in the applicant's or licensee's application
11 file or license file as maintained by the Department's
12 licensure maintenance unit. It is the duty of the applicant or
13 licensee to inform the Department of any change of address and
14 those changes must be made either through the Department's
15 website or by contacting the Department.

16 "Detection of Deception Examination", hereinafter referred
17 to as "Examination" means any examination in which a device or
18 instrument is used to test or question individuals for the
19 purpose of evaluating truthfulness or untruthfulness.

20 "Examiner" means any person licensed under this Act.

21 "Person" includes any natural person, partnership,
22 association, corporation or trust.

23 "Department" means the Department of Financial and
24 Professional Regulation ~~of the State of Illinois.~~

1 ~~"Director" means the Director of Professional Regulation~~
2 ~~of the State of Illinois.~~

3 ~~"Him" means both the male and female gender.~~

4 "Law enforcement agency" means an agency of the State or a
5 unit of local government that is vested by law or ordinance
6 with the power to maintain public order and to enforce criminal
7 laws and ordinances.

8 "Secretary" means the Secretary of Financial and
9 Professional Regulation.

10 (Source: P.A. 92-453, eff. 8-21-01; 93-619, eff. 12-15-03.)

11 (225 ILCS 430/3) (from Ch. 111, par. 2403)

12 (Section scheduled to be repealed on January 1, 2012)

13 Sec. 3. Every examiner shall use an instrument which
14 records permanently and simultaneously the subject's
15 cardiovascular, respiratory and galvanic skin response
16 patterns as minimum standards and shall base his or her
17 evaluation upon changes in such patterns. Such an instrument
18 may record additional physiological patterns pertinent to the
19 detection of deception. The examiner may also consider changes
20 in such additional patterns in making his or her evaluations.
21 An examiner shall, upon written request of a person examined,
22 make known the results of such test to the person examined
23 within 5 days of receipt of the written request.

24 (Source: P.A. 82-200.)

1 (225 ILCS 430/4) (from Ch. 111, par. 2404)

2 (Section scheduled to be repealed on January 1, 2012)

3 Sec. 4. Registration or license required; exceptions.

4 (a) It is unlawful for any person to administer detection
5 of deception examinations, or attempt to hold himself or
6 herself out as an Examiner, unless registered or licensed by
7 the Department. However, this shall not prohibit the use of
8 detection of deception equipment by a person licensed to
9 practice medicine in all its branches under the Medical
10 Practice Act of 1987 when the results are to be used in
11 research.

12 (b) Nothing in this Act prohibits the use of a voice stress
13 analyzer by any fully trained full time certified law
14 enforcement officer of a law enforcement agency in the course
15 of its duties as an investigative aid in a criminal
16 investigation. Law enforcement users of a voice stress analyzer
17 shall be trained in a manner approved by the Illinois Law
18 Enforcement Training Standards Board. ~~The use of a voice stress~~
19 ~~analyzer shall be conducted only with the prior written consent~~
20 ~~of the subject of such investigation.~~ Surreptitious use of a
21 voice stress analyzer is prohibited. Use of a voice stress
22 analyzer is prohibited when a State or local law enforcement
23 officer stops a motorist for an alleged violation of the
24 Illinois Vehicle Code. A voice stress analyzer is prohibited
25 for use in pre-employment screening and for internal
26 investigations. For the purposes of this subsection (b), "voice

1 stress analyzer" means an investigative tool that records voice
2 stress factors related to frequency modulations in the human
3 voice.

4 (Source: P.A. 93-619, eff. 12-15-03.)

5 (225 ILCS 430/4.5)

6 (Section scheduled to be repealed on January 1, 2012)

7 Sec. 4.5. Unlicensed practice; violation; civil penalty.

8 (a) Any person who practices, offers to practice, attempts
9 to practice, or holds oneself out to practice as a detection of
10 deception examiner without being licensed under this Act shall,
11 in addition to any other penalty provided by law, pay a civil
12 penalty to the Department in an amount not to exceed \$10,000
13 ~~\$5,000~~ for each offense as determined by the Department. The
14 civil penalty shall be assessed by the Department after a
15 hearing is held in accordance with the provisions set forth in
16 this Act regarding the provision of a hearing for the
17 discipline of a licensee.

18 (b) The Department has the authority and power to
19 investigate any and all unlicensed activity.

20 (c) The civil penalty shall be paid within 60 days after
21 the effective date of the order imposing the civil penalty. The
22 order shall constitute a judgment and may be filed and
23 execution had thereon in the same manner as any judgment from
24 any court of record.

25 (Source: P.A. 89-474, eff. 6-18-96.)

1 (225 ILCS 430/7.2)

2 (Section scheduled to be repealed on January 1, 2012)

3 Sec. 7.2. Detection of Deception Examiners Act
4 Coordinator. The Secretary may ~~Director shall~~ appoint a
5 Detection of Deception Examiners Act Coordinator to assist the
6 Department in the administration of this Act. The Detection of
7 Deception Examiners Act Coordinator shall be a person licensed
8 under this Act and shall have no less than 10 years of
9 experience as an Illinois licensed Detection of Deception
10 Examiner. The Detection of Deception Examiners Act Coordinator
11 shall perform such administrative functions on a full or
12 part-time basis as may be delegated to him or her by the
13 Secretary ~~Director~~, including, but not limited to, revising
14 ~~revision of~~ the licensing examination, reviewing ~~and review of~~
15 the training and qualifications of applicants, and
16 interviewing witnesses, the complainant, and any licensees
17 involved in an alleged matter ~~from a jurisdiction outside of~~
18 ~~Illinois.~~

19 ~~Whenever the Director is satisfied that substantial~~
20 ~~justice has not been done in an examination, he may order a~~
21 ~~re-examination by the same or other examiners.~~

22 (Source: P.A. 92-453, eff. 8-21-01.)

23 (225 ILCS 430/7.3)

24 (Section scheduled to be repealed on January 1, 2012)

1 Sec. 7.3. Appointment of a Hearing Officer. The Secretary
2 ~~Director~~ has the authority to appoint an attorney, licensed to
3 practice law in the State of Illinois, to serve as a Hearing
4 Officer in any action for refusal to issue or renew a license
5 or to discipline a license. The Hearing Officer has full
6 authority to conduct the hearing. The appointed Detection of
7 Deception Coordinator may attend hearings and advise the
8 Hearing Officer on technical matters involving Detection of
9 Deception examinations.

10 (Source: P.A. 92-453, eff. 8-21-01.)

11 (225 ILCS 430/8) (from Ch. 111, par. 2409)

12 (Section scheduled to be repealed on January 1, 2012)

13 Sec. 8. Applications for original licenses shall be made to
14 the Department in writing on forms prescribed by the Department
15 and shall be accompanied by the required fee, which shall not
16 be returnable. Any such application shall require such
17 information as in the judgment of the Department will enable
18 the Department to pass on the qualifications of the applicant
19 for a license.

20 If an applicant neglects, fails without an approved excuse
21 or refuses to take the next available examination for a license
22 under this Act, the fee paid by the applicant shall be
23 forfeited and the application denied. If an applicant fails to
24 pass an examination for a license under this Act within 3 years
25 after filing his or her application, the application shall be

1 denied. However, such applicant may thereafter make a new
2 application for examination, accompanied by the required fee.
3 (Source: P.A. 84-266.)

4 (225 ILCS 430/10.1) (from Ch. 111, par. 2411.1)

5 (Section scheduled to be repealed on January 1, 2012)

6 Sec. 10.1. Prior to beginning the 6 months of study of
7 detection of deception required by paragraph D of Section 11, a
8 person shall register with the Department. Persons who so
9 register may administer examinations under the supervision and
10 control of an examiner during their course of study.

11 This registration is valid for 1 year and may ~~not~~ be
12 renewed as set forth by rule.

13 (Source: P.A. 82-200.)

14 (225 ILCS 430/11) (from Ch. 111, par. 2412)

15 (Section scheduled to be repealed on January 1, 2012)

16 Sec. 11. Qualifications for licensure as an examiner. A
17 person is qualified to receive a license as an examiner:

18 A. Who establishes that he or she is a person of good moral
19 character; and

20 B. Who has passed an examination approved by the Department
21 to determine his or her competency to obtain a license to
22 practice as an examiner; and

23 C. Who has had conferred upon him or her an academic
24 degree, at the baccalaureate level, from an accredited college

1 or university; and

2 D. Who has satisfactorily completed 6 months of study in
3 detection of deception, as prescribed by rule, which shall
4 include, but not be limited to, course content, trainer
5 qualifications, and specialized instructor qualifications.

6 In determining good moral character, the Department may
7 take into consideration conviction of any crime under the laws
8 of the United States or any state or territory thereof that is
9 a felony or a misdemeanor or any crime that is directly related
10 to the practice of the profession. ~~Conviction of a misdemeanor~~
11 ~~involving moral turpitude or a felony may be considered, but~~
12 ~~shall not be determinative, in determining whether an applicant~~
13 ~~is of good moral character.~~

14 (Source: P.A. 92-453, eff. 8-21-01.)

15 (225 ILCS 430/13) (from Ch. 111, par. 2414)

16 (Section scheduled to be repealed on January 1, 2012)

17 Sec. 13. The expiration date and renewal period for each
18 license issued under this Act shall be set by rule. An examiner
19 whose license has expired may reinstate his or her license at
20 any time within 5 years after the expiration thereof, by making
21 a renewal application therefore ~~therefor~~ and by paying the
22 required fee. However, any examiner whose license expired while
23 he or she was (1) in Federal Service on active duty with the
24 Armed Forces of the United States, or the State Militia called
25 into service or training, or (2) in training or education under

1 the supervision of the United States preliminary to induction
2 into the military service, may have his or her license renewed,
3 reinstated or restored without paying any lapsed renewal and
4 restoration fees if within 2 years after honorable termination
5 of such service, training or education except under conditions
6 other than honorable, he or she furnishes the Department with
7 satisfactory evidence to the effect that he or she has been so
8 engaged and that his or her service, training or education has
9 been so terminated.

10 A license or duplicate license must be prominently
11 displayed at the principal place of business of every examiner.

12 Notice in writing shall be given to the Department by such
13 license holder of any change of principal business location
14 whereupon, the Department shall issue a new license for the
15 unexpired period upon payment of the required fee. A change of
16 business location without notification to the Department and
17 without the issuance by it of a new license shall automatically
18 suspend the license theretofore issued.

19 (Source: P.A. 84-1299.)

20 (225 ILCS 430/14) (from Ch. 111, par. 2415)

21 (Section scheduled to be repealed on January 1, 2012)

22 Sec. 14.

23 (a) The Department may refuse to issue or renew, ~~may~~
24 suspend or may revoke, suspend, place on probation, reprimand,
25 or take other disciplinary or non-disciplinary action as the

1 Department may deem appropriate, including imposing fines not
2 to exceed \$10,000 for each violation, with regard to any a
3 license for any one or a combination of the following ~~grounds~~:

4 (1) ~~A.~~ Material misstatement in furnishing information
5 to the Department ~~the application for original license or~~
6 ~~in the application for any renewal license under this Act.~~

7 (2) Violations of this Act, or of the rules adopted
8 under this Act. ~~B. Wilful disregard or violation of this~~
9 ~~Act or of any regulation or rule issued pursuant thereto.~~

10 (3) Conviction by plea of guilty or nolo contendere,
11 finding of guilt, jury verdict, or entry of judgment or by
12 sentencing of any crime, including, but not limited to,
13 convictions, preceding sentences of supervision,
14 conditional discharge, or first offender probation, under
15 the laws of any jurisdiction of the United States: (i) that
16 is a felony or (ii) that is a misdemeanor, an essential
17 element of which is dishonesty, or that is directly related
18 to the practice of the profession. ~~C. Conviction in this or~~
19 ~~another State of any crime which is a felony under the laws~~
20 ~~of this State or conviction of a felony in a federal court,~~
21 ~~or conviction of a misdemeanor involving moral turpitude.~~

22 (4) Making any misrepresentation for the purpose of
23 obtaining licensure or violating any provision of this Act
24 or the rules adopted under this Act pertaining to
25 advertising. ~~D. Making any wilful misrepresentation or~~
26 ~~false promises or causing to be printed any false or~~

1 ~~misleading advertisement for the purpose of directly or~~
2 ~~indirectly obtaining business or trainees.~~

3 (5) Professional incompetence. ~~E. Having demonstrated~~
4 ~~incompetency to act as an examiner as defined under this~~
5 ~~Act.~~

6 (6) ~~F.~~ Allowing one's license under this Act to be used
7 by an unlicensed person in violation of this Act.

8 (7) Aiding ~~G. Wilfully aiding or assisting abetting~~
9 another person in ~~the violating violation of~~ this Act or ~~of~~
10 any rule adopted under this Act ~~issued by the Department~~
11 ~~pursuant thereto.~~

12 (8) ~~H.~~ Where the license holder has been adjudged
13 mentally ill, mentally deficient or subject to involuntary
14 admission as provided in the Mental Health and
15 Developmental Disabilities Code.

16 (9) ~~I.~~ Failing, within 60 days ~~a reasonable time,~~ to
17 provide information in response to a written request made
18 ~~requested by the Department as the result of a formal or~~
19 ~~informal complaint to the Department, which would indicate~~
20 ~~a violation of this Act.~~

21 (10) Engaging in dishonorable, unethical, or
22 unprofessional conduct of a character likely to deceive,
23 defraud, or harm the public.

24 (11) Inability to practice with reasonable judgment,
25 skill, or safety as a result of habitual or excessive use
26 or addiction to alcohol, narcotics, stimulants, or any

1 other chemical agent or drug.

2 (12) Discipline by another state, District of
3 Columbia, territory, or foreign nation, if at least one of
4 the grounds for the discipline is the same or substantially
5 equivalent to those set forth in this Section.

6 (13) A finding by the Department that the licensee,
7 after having his or her license placed on probationary
8 status, has violated the terms of probation.

9 (14) Willfully making or filing false records or
10 reports in his or her practice, including, but not limited
11 to, false records filed with State agencies or departments.

12 (15) Inability to practice the profession with
13 reasonable judgment, skill, or safety as a result of a
14 physical illness, including, but not limited to,
15 deterioration through the aging process or loss of motor
16 skill, or a mental illness or disability.

17 (16) Charging for professional services not rendered,
18 including filing false statements for the collection of
19 fees for which services are not rendered.

20 (17) Practicing under a false or, except as provided by
21 law, an assumed name.

22 (18) Fraud or misrepresentation in applying for, or
23 procuring, a license under this Act or in connection with
24 applying for renewal of a license under this Act.

25 (19) Cheating on or attempting to subvert the licensing
26 examination administered under this Act.

1 All fines imposed under this Section shall be paid within
2 60 days after the effective date of the order imposing the
3 fine.

4 ~~J. Failure to file a return, or to pay the tax, penalty or~~
5 ~~interest shown in a filed return, or to pay any final~~
6 ~~assessment of tax, penalty or interest, as required by any tax~~
7 ~~Act administered by the Illinois Department of Revenue, until~~
8 ~~such time as the requirements of any such tax Act are~~
9 ~~satisfied.~~

10 (b) The Department may refuse to issue or may suspend
11 without hearing, as provided for in the Code of Civil
12 Procedure, the license of any person who fails to file a
13 return, or pay the tax, penalty, or interest shown in a filed
14 return, or pay any final assessment of the tax, penalty, or
15 interest as required by any tax Act administered by the
16 Illinois Department of Revenue, until such time as the
17 requirements of any such tax Act are satisfied in accordance
18 with subsection (g) of Section 2105-15 of the Civil
19 Administrative Code of Illinois.

20 (c) The Department shall deny a license or renewal
21 authorized by this Act to a person who has defaulted on an
22 educational loan or scholarship provided or guaranteed by the
23 Illinois Student Assistance Commission or any governmental
24 agency of this State in accordance with item (5) of subsection
25 (g) of Section 2105-15 of the Civil Administrative Code of
26 Illinois.

1 (d) In cases where the Department of Healthcare and Family
2 Services has previously determined a licensee or a potential
3 licensee is more than 30 days delinquent in the payment of
4 child support and has subsequently certified the delinquency to
5 the Department, the Department may refuse to issue or renew or
6 may revoke or suspend that person's license or may take other
7 disciplinary action against that person based solely upon the
8 certification of delinquency made by the Department of
9 Healthcare and Family Services in accordance with item (5) of
10 subsection (g) of Section 1205-15 of the Civil Administrative
11 Code of Illinois.

12 (e) The determination by a circuit court that a licensee is
13 subject to involuntary admission or judicial admission, as
14 provided in the Mental Health and Development Disabilities
15 Code, operates as an automatic suspension. The suspension will
16 end only upon a finding by a court that the patient is no
17 longer subject to involuntary admission or judicial admission
18 and the issuance of an order so finding and discharging the
19 patient.

20 (f) In enforcing this Act, the Department, upon a showing
21 of a possible violation, may compel an individual licensed to
22 practice under this Act, or who has applied for licensure under
23 this Act, to submit to a mental or physical examination, or
24 both, as required by and at the expense of the Department. The
25 Department may order the examining physician to present
26 testimony concerning the mental or physical examination of the

1 licensee or applicant. No information shall be excluded by
2 reason of any common law or statutory privilege relating to
3 communications between the licensee or applicant and the
4 examining physician. The examining physicians shall be
5 specifically designated by the Department. The individual to be
6 examined may have, at his or her own expense, another physician
7 of his or her choice present during all aspects of this
8 examination. The examination shall be performed by a physician
9 licensed to practice medicine in all its branches. Failure of
10 an individual to submit to a mental or physical examination,
11 when directed, shall result in an automatic suspension without
12 hearing.

13 A person holding a license under this Act or who has
14 applied for a license under this Act who, because of a physical
15 or mental illness or disability, including, but not limited to,
16 deterioration through the aging process or loss of motor skill,
17 is unable to practice the profession with reasonable judgment,
18 skill, or safety, may be required by the Department to submit
19 to care, counseling, or treatment by physicians approved or
20 designated by the Department as a condition, term, or
21 restriction for continued, reinstated, or renewed licensure to
22 practice. Submission to care, counseling, or treatment as
23 required by the Department shall not be considered discipline
24 of a license. If the licensee refuses to enter into a care,
25 counseling, or treatment agreement or fails to abide by the
26 terms of the agreement, the Department may file a complaint to

1 revoke, suspend, or otherwise discipline the license of the
2 individual. The Secretary may order the license suspended
3 immediately, pending a hearing by the Department. Fines shall
4 not be assessed in disciplinary actions involving physical or
5 mental illness or impairment.

6 In instances in which the Secretary immediately suspends a
7 person's license under this Section, a hearing on that person's
8 license must be convened by the Department within 15 days after
9 the suspension and completed without appreciable delay. The
10 Department shall have the authority to review the subject
11 individual's record of treatment and counseling regarding the
12 impairment to the extent permitted by applicable federal
13 statutes and regulations safeguarding the confidentiality of
14 medical records.

15 An individual licensed under this Act and affected under
16 this Section shall be afforded an opportunity to demonstrate to
17 the Department that he or she can resume practice in compliance
18 with acceptable and prevailing standards under the provisions
19 of his or her license.

20 (Source: P.A. 85-1222.)

21 (225 ILCS 430/15) (from Ch. 111, par. 2416)

22 (Section scheduled to be repealed on January 1, 2012)

23 Sec. 15. Any unlawful act or violation of any of the
24 provisions of this Act upon the part of any examiner or
25 trainee, shall not be cause for revocation of the license of

1 any other examiner for whom the offending examiner may have
2 been employed, unless ~~it shall appear that~~ the examiner knew or
3 should have known of ~~has wilfully aided or abetted~~ the actions
4 or activities of the offending examiner or trainee.

5 (Source: Laws 1963, p. 3300.)

6 (225 ILCS 430/17) (from Ch. 111, par. 2418)

7 (Section scheduled to be repealed on January 1, 2012)

8 Sec. 17. Investigations; notice and hearing. ~~Complaints;~~
9 ~~investigations.~~ The Department may ~~upon its own motion and~~
10 ~~shall, upon the verified complaint in writing of any person~~
11 ~~setting forth facts which if proved would constitute grounds~~
12 ~~for refusal, suspension or revocation of a license under this~~
13 ~~Act,~~ investigate the actions of any applicant or any person or
14 persons rendering or offering to render detection of deception
15 services or any person holding or claiming to hold a license as
16 a licensed examiner. The Department shall, before refusing to
17 issue or renew a license or to discipline a licensee under
18 Section 14 ~~and before suspension or revocation of a license,~~ at
19 least 30 days prior to the date set for the hearing, (i) notify
20 the accused in writing ~~the applicant for, or holder of, a~~
21 ~~license of the nature~~ of the charges made and the time and
22 place for the hearing on the charges, (ii) direct him or her
23 ~~and that a hearing will be held on the date designated.~~ The
24 ~~Department shall direct the applicant or licensee to file a~~
25 written answer with the Department under oath within 20 days

1 after the service of the notice, and (iii) inform the applicant
2 or licensee that failure to file an answer will result in
3 default being taken against the applicant or licensee. At the
4 time and place fixed in the notice, the Department shall
5 proceed to hear the charges and the parties or their counsel
6 shall be accorded ample opportunity to present any pertinent
7 statements, testimony, evidence, and arguments. The Department
8 may continue the hearing from time to time. In case the person,
9 after receiving the notice, fails to file an answer, his or her
10 license, may, in the discretion of the Department, be revoked,
11 suspended, placed on probationary status, or the Department may
12 take whatever disciplinary action considered proper, including
13 limiting the scope, nature, or extent of the person's practice
14 or the imposition of a fine, without a hearing, if the act or
15 acts charged constitute sufficient grounds for that action
16 under the Act. The written notice may be served by personal
17 delivery or by certified mail to the accused's address of
18 record. ~~and that the license or certificate may be suspended,~~
19 ~~revoked, placed on probationary status, or other disciplinary~~
20 ~~action may be taken, including limiting the scope, nature or~~
21 ~~extent of practice, as the Director may deem proper. In case~~
22 ~~the person fails to file an answer after receiving notice, his~~
23 ~~or her license or certificate may, in the discretion of the~~
24 ~~Department, be suspended, revoked, or placed on probationary~~
25 ~~status, or the Department may take whatever disciplinary action~~
26 ~~deemed proper, including limiting the scope, nature, or extent~~

1 ~~of the person's practice or the imposition of a fine, without a~~
2 ~~hearing, if the act or acts charged constitute sufficient~~
3 ~~grounds for such action under this Act. The hearing shall~~
4 ~~determine whether the applicant or holder, hereinafter called~~
5 ~~the respondent is privileged to hold a license, and shall~~
6 ~~afford the respondent an opportunity to be heard in person or~~
7 ~~by counsel in reference thereto. Written notice may be served~~
8 ~~by delivery of the same personally to the respondent at the~~
9 ~~address of his last notification to the Department. At the time~~
10 ~~and place fixed in the notice, the Department shall proceed to~~
11 ~~hear the charges and both the respondent and Department shall~~
12 ~~be accorded ample opportunity to present in person or by~~
13 ~~counsel such statements, testimony, evidence and argument as~~
14 ~~may be pertinent to the charges or to their defense. The~~
15 ~~Department may continue the hearing from time to time.~~

16 (Source: P.A. 92-453, eff. 8-21-01.)

17 (225 ILCS 430/18) (from Ch. 111, par. 2419)

18 (Section scheduled to be repealed on January 1, 2012)

19 Sec. 18. Stenographer; transcript; Hearing Officer report.
20 The Department, at its expense, shall provide a stenographer to
21 take down the testimony and preserve a record of all
22 proceedings at the hearing of any case ~~involving the refusal to~~
23 ~~issue or the suspension or revocation of a license.~~ The notice
24 of hearing, complaint and all other documents in the nature of
25 pleadings and written motions filed in the proceedings, the

1 transcript of testimony, the report of the Hearing Officer and
2 orders of the Department shall be the records of the
3 proceedings. ~~The Department shall furnish a transcript of the~~
4 ~~record to any person or persons interested in the hearing upon~~
5 ~~the payment of the fee required under Section 2105-115 of the~~
6 ~~Department of Professional Regulation Law (20 ILCS~~
7 ~~2105/2105-115).~~

8 ~~At the conclusion of the hearing, the Hearing Officer shall~~
9 ~~make findings of fact, conclusions of law, and recommendations,~~
10 ~~separately stated, and submit them to the Director and to all~~
11 ~~parties to the proceeding.~~

12 ~~The Hearing Officer's findings of fact, conclusions of law,~~
13 ~~and recommendations shall be served upon the licensee in a~~
14 ~~similar fashion as service of the notice of formal charges.~~
15 ~~Within 20 days after the service, any party to the proceeding~~
16 ~~may present to the Director a motion, in writing, specifying~~
17 ~~the particular grounds for a rehearing.~~

18 ~~The Director, following the time allowed for filing a~~
19 ~~motion for rehearing, shall review the Hearing Officer's~~
20 ~~findings of fact, conclusions of law, and recommendations and~~
21 ~~any subsequently filed motions. After review of the~~
22 ~~information, the Director may hear oral arguments and~~
23 ~~thereafter shall issue the order. The report of findings of~~
24 ~~fact, conclusions of law, and recommendations of the Hearing~~
25 ~~Officer shall be the basis for the Department's order. If the~~
26 ~~Director finds that substantial justice was not done, the~~

~~Director may issue an order in contravention of the Hearing Officer's recommendations. The Director shall promptly provide a written explanation to all parties to the proceeding of any disagreement with the Hearing Officer's recommendations.~~

(Source: P.A. 91-239, eff. 1-1-00; 92-453, eff. 8-21-01.)

(225 ILCS 430/18.3 new)

Sec. 18.3. Finding and recommendations. At the conclusion of the hearing, the hearing officer shall make findings of fact, conclusions of law, and recommendations, separately stated, and submit them to the Secretary and to all parties to the proceeding.

The hearing officer's findings of fact, conclusions of law, and recommendations shall be served upon the licensee in a similar fashion as service of the notice of formal charges. Within 20 days after the service, any party to the proceeding may present to the Secretary a motion, in writing, specifying the particular grounds for a rehearing.

The Secretary, following the time allowed for filing a motion for rehearing, shall review the hearing officer's findings of fact, conclusions of law, and recommendations and any subsequently filed motions. After review of the information, the Secretary may hear oral arguments and thereafter shall issue the order. The report of findings of fact, conclusions of law, and recommendations of the hearing officer shall be the basis for the Department's order. If the

1 Secretary finds that substantial justice was not done, the
2 Secretary may issue an order in contravention of the hearing
3 officer's recommendations.

4 (225 ILCS 430/19) (from Ch. 111, par. 2420)

5 (Section scheduled to be repealed on January 1, 2012)

6 Sec. 19. Subpoenas; depositions; oaths.

7 (a) The Department may subpoena and bring before it any
8 person to take the oral or written testimony or compel the
9 production of any books, papers, records, or any other
10 documents that the Secretary or his or her designee deems
11 relevant or material to any investigation or hearing conducted
12 by the Department with the same fees and in the same manner as
13 prescribed in civil cases in the courts of this State.

14 (b) Any circuit court, upon the application of the licensee
15 or the Department, may order the attendance and testimony of
16 witnesses and the production of relevant documents, files,
17 records, books, and papers in connection with any hearing or
18 investigation. The circuit court may compel obedience to its
19 order by proceedings for contempt.

20 (c) The Secretary, the hearing officer, any member of the
21 Board, or a certified shorthand court reporter may administer
22 oaths at any hearing the Department conducts. Notwithstanding
23 any other statute or Department rule to the contrary, all
24 requests for testimony, production of documents, or records
25 shall be in accordance with this Act. ~~Any circuit court may,~~

1 ~~upon application of the Director or of the applicant or~~
2 ~~licensee against whom proceedings upon Section 17 of this Act~~
3 ~~are pending, enter an order requiring the attendance of~~
4 ~~witnesses and their testimony, and the production of documents,~~
5 ~~papers, files, books and records in connection with any hearing~~
6 ~~in any proceedings under that section. The court may compel~~
7 ~~obedience to its order by proceedings for contempt.~~

8 (Source: P.A. 83-334.)

9 (225 ILCS 430/20) (from Ch. 111, par. 2421)

10 (Section scheduled to be repealed on January 1, 2012)

11 Sec. 20. Any person affected by a final administrative
12 decision of the Department may have such decision reviewed
13 judicially by the circuit court of the county wherein such
14 person resides. If the plaintiff in the review proceeding is
15 not a resident of this State, the venue shall be in Sangamon
16 County. The provisions of the Administrative Review Law, and
17 all amendments and modifications thereof, and the rules adopted
18 pursuant thereto, shall apply to and govern all proceedings for
19 the judicial review of final administrative decisions of the
20 Department hereunder. The term "administrative decision" is
21 defined as in Section 3-101 of the Code of Civil Procedure.

22 The Department shall not be required to certify any record
23 to the court or file any answer in court or otherwise appear in
24 any court in a Judicial review proceeding, unless and until the
25 Department has received from the plaintiff there is filed in

1 ~~the court with the complaint a receipt from the Department~~
2 ~~acknowledging~~ payment of the costs of furnishing and certifying
3 the record which costs shall be determined by the Department
4 ~~computed at the rate of 20 cents per page of such record.~~
5 Exhibits ~~Exhibit~~ shall be certified without cost. Failure on
6 the part of the plaintiff ~~Plaintiff~~ to file a such receipt in
7 court is ~~shall be~~ grounds for dismissal of the action.

8 (Source: P.A. 82-783.)

9 (225 ILCS 430/22) (from Ch. 111, par. 2423)

10 (Section scheduled to be repealed on January 1, 2012)

11 Sec. 22. Rules ~~Regulations~~; forms. The Secretary ~~Director~~
12 may issue rules ~~regulations~~, consistent with the provisions of
13 this Act, for the administration and enforcement thereof and
14 may prescribe forms which shall be issued in connection
15 therewith.

16 (Source: P.A. 92-453, eff. 8-21-01.)

17 (225 ILCS 430/24) (from Ch. 111, par. 2425)

18 (Section scheduled to be repealed on January 1, 2012)

19 Sec. 24. Injunctions; cease and desist orders. If any
20 person violates a provision of this Act, the Secretary ~~Director~~
21 may, in the name of the People of the State of Illinois,
22 through the Attorney General of the State of Illinois or the
23 State's Attorney of the county in which the violation is
24 alleged to have occurred, ~~petition,~~ ~~apply,~~ in the circuit

1 ~~court, for~~ an order enjoining such violation or for an order
2 enforcing compliance with this Act. Upon the filing of a
3 verified petition ~~complaint in such court,~~ the court, with
4 appropriate jurisdiction, may issue ~~or any judge thereof, if~~
5 ~~satisfied by affidavit or otherwise that such person has~~
6 ~~violated this Act, may enter~~ a temporary restraining order ~~or~~
7 ~~preliminary injunction,~~ without notice or bond, and may
8 preliminarily and permanently enjoin the violation. If
9 ~~enjoining such continued violation, and if~~ it is established
10 that such person has violated or is violating the injunction
11 ~~this Act,~~ the court ~~Court~~ may summarily try and punish the
12 offender for contempt of court. Proceedings under this Section
13 ~~section~~ shall be in addition to, and not in lieu of, all other
14 remedies and penalties provided by this Act.

15 Whenever, in the opinion of the Department, a person
16 violates any provision of this Act, the Department may issue a
17 rule to show cause why an order to cease and desist should not
18 be entered against that person. The rule shall clearly set
19 forth the grounds relied upon by the Department and shall
20 provide a period of 7 days from the date of the rule to file an
21 answer to the satisfaction of the Department. Failure to answer
22 to the satisfaction of the Department shall cause an order to
23 cease and desist to be issued. The Department may conduct
24 ~~hearings and issue cease and desist orders with respect to~~
25 ~~persons who engage in activities prohibited by this Act. Any~~
26 ~~person in violation of a cease and desist order entered by the~~

1 ~~Department shall be subject to all of the remedies provided by~~
2 ~~law and, in addition, shall be subject to a civil penalty~~
3 ~~payable to the party injured by the violation in an amount up~~
4 ~~to \$10,000.~~

5 (Source: P.A. 92-453, eff. 8-21-01.)

6 (225 ILCS 430/25) (from Ch. 111, par. 2426)

7 (Section scheduled to be repealed on January 1, 2012)

8 Sec. 25. Order or certified copy; prima facie proof. An
9 order or a certified copy thereof, over the seal of the
10 Department and purporting to be signed by the Secretary
11 ~~Director~~, shall be prima facie proof that:

12 (a) the signature is the genuine signature of the
13 Secretary ~~Director~~; and

14 (b) the Secretary ~~Director~~ is duly appointed and
15 qualified.

16 (Source: P.A. 91-357, eff. 7-29-99; 92-453, eff. 8-21-01.)

17 (225 ILCS 430/26) (from Ch. 111, par. 2427)

18 (Section scheduled to be repealed on January 1, 2012)

19 Sec. 26. Fees. The Department shall provide by rule for a
20 schedule of fees for the administration and enforcement of this
21 Act, including, but not limited to, original licensure, registration,
22 renewal, and restoration. The fees shall be
23 nonrefundable.

24 All fees collected under this Act shall be deposited into

1 the General Professions Dedicated Fund and shall be
2 appropriated to the Department for the ordinary and contingent
3 expenses of the Department in the administration of this Act.

4 (Source: P.A. 91-454, eff. 1-1-00.)

5 (225 ILCS 430/26.1) (from Ch. 111, par. 2427.1)

6 (Section scheduled to be repealed on January 1, 2012)

7 Sec. 26.1. Returned checks; fines. Any person who delivers
8 a check or other payment to the Department that is returned to
9 the Department unpaid by the financial institution upon which
10 it is drawn shall pay to the Department, in addition to the
11 amount already owed to the Department, a fine of \$50. The fines
12 imposed by this Section are in addition to any other discipline
13 provided under this Act for unlicensed practice or practice on
14 a nonrenewed license. The Department shall notify the person
15 that payment of fees and fines shall be paid to the Department
16 by certified check or money order within 30 calendar days of
17 the notification. If, after the expiration of 30 days from the
18 date of the notification, the person has failed to submit the
19 necessary remittance, the Department shall automatically
20 terminate the license or certificate or deny the application,
21 without hearing. If, after termination or denial, the person
22 seeks a license or certificate, he or she shall apply to the
23 Department for restoration or issuance of the license or
24 certificate and pay all fees and fines due to the Department.
25 The Department may establish a fee for the processing of an

1 application for restoration of a license or certificate to pay
2 all expenses of processing this application. The Secretary
3 ~~Director~~ may waive the fines due under this Section in
4 individual cases where the Secretary ~~Director~~ finds that the
5 fines would be unreasonable or unnecessarily burdensome.

6 (Source: P.A. 92-146, eff. 1-1-02; 92-453, eff. 8-21-01.)

7 (225 ILCS 430/26.5 new)

8 Sec. 26.5. Confidentiality. All information collected by
9 the Department in the course of an examination or investigation
10 of a licensee or applicant, including, but not limited to, any
11 complaint against a licensee filed with the Department and
12 information collected to investigate any such complaint, shall
13 be maintained for the confidential use of the Department and
14 shall not be disclosed. The Department may not disclose the
15 information to anyone other than law enforcement officials,
16 other regulatory agencies that have an appropriate regulatory
17 interest as determined by the Secretary, or to a party
18 presenting a lawful subpoena to the Department. Information and
19 documents disclosed to a federal, State, county, or local law
20 enforcement agency shall not be disclosed by the agency for any
21 purpose to any other agency or person. A formal complaint filed
22 against a licensee by the Department or any order issued by the
23 Department against a licensee or applicant shall be a public
24 record, except as otherwise prohibited by law.

1 (225 ILCS 430/28) (from Ch. 111, par. 2429)

2 (Section scheduled to be repealed on January 1, 2012)

3 Sec. 28. Violations. Sentence. A person who is found to
4 have violated any provision of this Act is guilty of a Class A
5 misdemeanor for the first offense and a Class 4 felony for the
6 second and any subsequent offense. ~~Violation of this Act is a~~
7 ~~Class B misdemeanor. All fines under this Act shall inure and~~
8 ~~be paid to the County in which the prosecution is maintained.~~

9 (Source: P.A. 77-2650.)

10 (225 ILCS 430/29) (from Ch. 111, par. 2430)

11 (Section scheduled to be repealed on January 1, 2012)

12 Sec. 29. Restoration of license from discipline. At any
13 time after the successful completion of a term of indefinite
14 probation, suspension, or revocation of a license, the
15 Department may restore the license to the licensee, unless,
16 after an investigation and a hearing, the Secretary determines
17 that restoration is not in the public interest. No person or
18 entity whose license, certificate, or authority has been
19 revoked as authorized in this Act may apply for restoration of
20 that license, certification, or authority until such time as
21 provided for in the Civil Administrative Code of Illinois.
22 ~~suspension or revocation of any license, the Department may~~
23 ~~restore it to the accused person.~~

24 (Source: P.A. 92-453, eff. 8-21-01.)

1 (225 ILCS 430/30) (from Ch. 111, par. 2431)

2 (Section scheduled to be repealed on January 1, 2012)

3 Sec. 30. An applicant who is an Examiner, licensed under
4 the laws of another state or territory of the United States,
5 or an examiner who has been trained under the training
6 standards determined by the federal government, may be issued a
7 license ~~without examination~~ by the Department, in its
8 discretion, upon payment of a fee as set by rule, and the
9 production of ~~satisfactory proof~~:

10 (a) satisfactory proof that he or she is of good moral
11 character; and

12 (b) satisfactory proof that the requirements for the
13 licensing of Examiners in such particular state or territory of
14 the United States were, at the date of licensing, substantially
15 equivalent to the requirements then in force in this State; or

16 -

17 (c) certification, if applicable, that the applicant has
18 successfully completed the Defense Academy for Credibility
19 Assessment course, or its predecessor or successor course.

20 (Source: P.A. 92-453, eff. 8-21-01.)

21 (225 ILCS 430/10 rep.)

22 Section 15. The Detection of Deception Examiners Act is
23 amended by repealing Section 10.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.

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