



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1306

Introduced 2/8/2011, by Sen. Thomas Johnson

#### SYNOPSIS AS INTRODUCED:

New Act  
5 ILCS 80/4.32 new

Creates the Collateral Recovery Act. Requires the licensure of repossession agencies and recovery managers, and the registration of repossession agency employees, within 6 months after the effective date of the Act. Grants rulemaking authority to the Illinois Commerce Commission. Sets forth provisions concerning qualifications, application, examination, assignment, insurance requirements, and administrative proceedings. Provides that all monies collected by the Illinois Commerce Commission under the Act shall be deposited into the Transportation Regulatory Fund in the State Treasury and used by the Illinois Commerce Commission for the administration of the Act. Provides that any municipality or county, including a home rule unit, may not regulate individuals and entities engaged in the business of collateral recovery in a manner inconsistent with this Act. Amends the Regulatory Sunset Act to set a January 1, 2022 repeal date for the new Act. Effective immediately.

LRB097 08920 CEL 49052 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

HOME RULE 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 1. Short title. This Act may be cited as the  
5 Collateral Recovery Act.

6 Section 5. Findings; purpose. The General Assembly finds  
7 that collateral recovery practices affect public health,  
8 safety, and welfare and declares that the purpose of this Act  
9 is to regulate individuals and entities engaged in the business  
10 of collateral recovery for the protection of the public.

11 Section 10. Definitions. In this Act:

12 "Assignment" means a written authorization by a legal  
13 owner, lien holder, lessor, or lessee to locate or repossess  
14 any collateral, including, but not limited to, collateral  
15 registered under the Illinois Vehicle Code that is subject to a  
16 security agreement that contains a repossession clause.  
17 "Assignment" also means a written authorization by an employer  
18 to recover any collateral entrusted to an employee or former  
19 employee if the possessor is wrongfully in the possession of  
20 the collateral. A photocopy, facsimile copy, or electronic copy  
21 of an assignment shall have the same force and effect as an  
22 original written assignment.

1 "Branch office" means each additional office and secured  
2 storage facility location of a repossession agency conducting  
3 business within the State of Illinois and operating under the  
4 same name as the repossession agency where business is actively  
5 conducted that advertises as performing or is engaged in the  
6 business authorized by the licensure. Each branch office must  
7 be individually licensed.

8 "Collateral" means any vehicle, boat, recreational  
9 vehicle, motor home, motorcycle, or other property that is  
10 subject to a security agreement.

11 "Commission" means the Illinois Commerce Commission.

12 "Debtor" means any person or entity obligated under a  
13 security agreement.

14 "Financial institution" means a bank, savings bank,  
15 savings and loan association, or credit union organized and  
16 operating under the laws of this or any other state or of the  
17 United States, and any subsidiary or affiliate thereof.

18 "Legal owner" means a person holding (i) a security  
19 interest in any collateral that is subject to a security  
20 agreement, (ii) a lien against any collateral, or (iii) an  
21 interest in any collateral that is subject to a lease  
22 agreement.

23 "Licensure" means the approval of the required criteria  
24 that has been submitted for review in accordance with the  
25 provisions of this Act.

26 "Licensed recovery manager" means a person who possesses a

1 valid license in accordance with the provisions of this Act and  
2 is in control or management of an Illinois repossession agency.

3 "Personal effects" means any property contained within or  
4 on repossessed collateral that is not the property of the legal  
5 owner.

6 "Recovery permit" means a permit issued by the Commission  
7 to a repossession agency employee who has met all the  
8 requirements under this Act.

9 "Recovery ticket" means a serialized record obtained from  
10 the Commission for any repossessed vehicle or collateral from  
11 any person, business, financial institution, state agency,  
12 automotive dealership, or towing company that shows a recovery  
13 ticket fee has been paid to the Commission.

14 "Repossession agency" means any person or entity  
15 conducting business within the State of Illinois, that, for any  
16 type of consideration, engages in the business of, accepts  
17 employment to furnish, or agrees to provide or provides  
18 property locating services, property recovery, recovered  
19 property transportation, recovered property storage, or all  
20 services relevant to any of the following:

21 (1) The location, disposition, or recovery of property  
22 as authorized by the self-help provisions of the Uniform  
23 Commercial Code.

24 (2) The location, disposition, or recovery of lost or  
25 stolen property.

26 (3) Securing evidence concerning repossession and

1 recovery to be used before any court, board, office, or  
2 investigating committee.

3 (4) Inventory of property contained in or on the  
4 collateral or recovered property.

5 (5) The possession of collateral.

6 (6) The prevention of the misappropriation or  
7 concealment of chattel, vehicles, goods, objects,  
8 documents, or papers. A repossession agency must maintain a  
9 secured storage facility.

10 "Repossession agency" does not include any of the  
11 following:

12 (1) An attorney at law who is performing his or her  
13 duties as an attorney at law.

14 (2) The legal owner of collateral that is subject to a  
15 security agreement.

16 (3) An officer or employee of the United States of  
17 America or of this State or a political subdivision of this  
18 State, while the officer or employee is engaged in the  
19 performance of his or her official duties.

20 (4) A qualified license or recovery permit holder or a  
21 registrant when performing services for, or on behalf of, a  
22 licensed repossession agency.

23 "Repossession agency employee" means any person or  
24 self-employed independent contractor who is hired by a  
25 repossession agency.

26 "Secured storage facility" means an area located on the

1 same premises as a repossession agency office or branch office,  
2 that is designated for the storage of collateral and has a  
3 perimeter that is secured with a fencing construction that  
4 makes the area not accessible to the public. Each repossession  
5 agency office or branch office must maintain a secured storage  
6 facility.

7 "Security agreement" means an obligation, pledge,  
8 mortgage, chattel mortgage, lease agreement, deposit, or lien,  
9 given by a debtor as security for payment or performance of his  
10 or her debt, by furnishing the creditor with a recourse to be  
11 used in case of failure in the principal obligation. "Security  
12 agreement" includes a bailment where an employer-employee  
13 relationship exists or existed between the bailor and the  
14 bailee.

15 Section 15. Powers of Commission.

16 (a) The Commission shall regulate repossession agencies  
17 and their employees, managers or agents in accordance with this  
18 Act, and to that end may establish reasonable requirements with  
19 respect to proper service and practices relating thereto.

20 (b) The Commission shall have the following powers:

21 (1) To require that all employees, agents, or other  
22 personnel used in repossession be employees, agents, or  
23 personnel of a licensed repossession agency.

24 (2) To adopt reasonable and proper rules covering the  
25 exercise of powers conferred upon it by this Act, and

1 reasonable rules governing investigations, hearings, and  
2 proceedings under this Act.

3 (3) To adopt appropriate rules setting forth the  
4 standards and procedures by which it will administer and  
5 enforce this Act.

6 (4) To create special procedures for the receipt and  
7 handling of consumer complaints.

8 (5) To employ such persons as are needed to administer  
9 and enforce this Act, in such capacities as they are  
10 needed, whether as hearings examiners, special examiners,  
11 enforcement officers, investigators, or otherwise.

12 (c) The staff of the Commission shall have full power and  
13 authority in the performance of their official duties to enter  
14 into or upon any place, building, or premises of any  
15 repossession agency location or branch office location at any  
16 reasonable time for the purpose of inspecting such agency  
17 operating under this Act.

18 Section 20. Rulemaking enforcement.

19 (a) The Commission may adopt any rules and procedures  
20 necessary to administer the provisions of this Act and shall  
21 work in conjunction with the Illinois Commerce Commission  
22 Police in adopting any rules and procedures necessary to  
23 enforce the provisions of this Act.

24 (b) The Commission may, by administrative rule, modify any  
25 rules or procedures or adjust any fees necessary to regulate

1 and enforce the provisions of this Act.

2 Section 25. Recovery ticket.

3 (a) A licensed repossession agency must purchase a recovery  
4 ticket from the Commission for each repossessed vehicle or  
5 collateral. The recovery ticket must show all of the following  
6 information:

7 (1) The date, time, and location of the repossession.

8 (2) The Vehicle Identification Number (VIN), the make,  
9 the model, and the year of the vehicle or collateral  
10 repossessed.

11 (3) The debtor's name, the agency name, the employee's  
12 name, and the recovery permit number.

13 (4) The name and officer identification number of the  
14 local law enforcement officer notified of the  
15 repossession.

16 (b) The recovery ticket must be placed with the vehicle or  
17 collateral at the time of repossession and must accompany the  
18 vehicle or collateral until it has been liquidated or returned  
19 to the lien holder or debtor. A copy of the recovery ticket  
20 must be kept for the agency's permanent file for a period of 2  
21 years following the date of repossession. A copy of the  
22 recovery ticket must be returned to the legal owner or  
23 financial institution within 72 hours following the date of  
24 repossession.

25 (c) A fee for the recovery ticket must be collected by the



1 Commission at the time of purchase. The cost for each recovery  
2 ticket is \$5.50 and is nonrefundable. Recovery tickets must  
3 only be sold in lots of 50 and 100. Only an Illinois licensed  
4 repossession agency may purchase recovery tickets.

5 If a repossession agency's license is revoked by the  
6 Commission, then the repossession agency must return any and  
7 all unused recovery tickets to the Commission immediately upon  
8 license revocation. No refund from the Commission will be  
9 issued for the return of unused recovery tickets.

10 (d) Any agency or employee found to be in possession of a  
11 repossessed vehicle without having a valid recovery ticket is  
12 in violation of this Act and therefore jeopardizing the license  
13 of the employee or the agency that he or she is repossessing  
14 for.

15 Section 30. License or registration required.

16 (a) Beginning 6 months after the effective date of this  
17 Act, it shall be unlawful for any person or entity to repossess  
18 a vehicle or collateral in this State, attempt to repossess a  
19 vehicle or collateral in this State, or to hold himself,  
20 herself, or itself out to be a repossession agency unless  
21 licensed under this Act.

22 (b) Beginning 6 months after the effective date of this  
23 Act, it shall be unlawful for any person to repossess a vehicle  
24 or collateral in this State, attempt to repossess a vehicle or  
25 collateral in this State, or to hold himself or herself out to

1 be a licensed recovery manager unless licensed under this Act.

2 (c) Beginning 6 months after the effective date of this  
3 Act, it shall be unlawful for any person to repossess a vehicle  
4 or collateral in this State, attempt to repossess a vehicle or  
5 collateral in this State, or hold himself or herself out to be  
6 a repossession agency employee unless he or she holds a valid  
7 recovery permit issued by the Commission under this Act.

8 (d) This Act does not apply to a financial institution or  
9 the employee of a financial institution when engaged in an  
10 activity otherwise covered by this Act if the activity is  
11 conducted by the employee on behalf of that financial  
12 institution.

13 Section 35. Application for repossession agency licensure.

14 (a) Application for original licensure as a repossession  
15 agency shall be made to the Commission in writing on forms  
16 prescribed by the Commission and shall be accompanied by the  
17 appropriate documentation and the required fee, which fee is  
18 nonrefundable.

19 (b) Every application shall state, in addition to any other  
20 requirements, (i) the name of the applicant, (ii) the name  
21 under which the applicant will do business, (iii) the proposed  
22 location of the agency by number and street and city, and (iv)  
23 the usual business hours that the agency will maintain.

24 (c) No license may be issued (i) in any fictitious name  
25 that may be confused with or is similar to any federal, state,

1 county, or municipal government function or agency, (ii) in any  
2 name that may tend to describe any business function or  
3 enterprise not actually engaged in by the applicant, (iii) in  
4 any name that is the same as or similar to any existing  
5 licensed company and that would tend to deceive the public,  
6 (iv) in any name that would tend to be deceptive or misleading,  
7 or (v) to any repossession agency applicant without that  
8 agency's location or branch office location maintaining a  
9 secured storage facility as defined in Section 10 of this Act.

10 (d) If the applicant for repossession agency licensure is  
11 an individual, then his or her application shall include (i)  
12 the full residential address of the applicant and (ii) either  
13 the sworn statement of the applicant declaring that he or she  
14 is the licensed recovery manager who will be personally in  
15 control of the agency for which the licensure is sought, or the  
16 name and signed sworn statement of the licensed recovery  
17 manager who will be in control of the agency.

18 (e) If the applicant for repossession agency licensure is a  
19 partnership, then the application shall include (i) a statement  
20 of the names and full residential addresses of all partners in  
21 the business and (ii) a sworn statement signed by each partner  
22 verifying the name of the person who is a licensed recovery  
23 manager and will be in control of the business. If a licensed  
24 recovery manager who is not a partner will be in control of the  
25 agency, then he or she must also sign the sworn statement. The  
26 application shall also state whether any of the partners has

1 ever used an alias.

2 (f) If the applicant for licensure as a repossession agency  
3 is a corporation, then the application shall include (i) the  
4 names and full residential addresses of all corporation  
5 officers and (ii) a sworn statement signed by a duly authorized  
6 officer of the corporation verifying the name of the person who  
7 is a licensed recovery manager and will be in control of the  
8 agency. If a licensed recovery manager who is not an officer  
9 will be in control of the agency, then he or she must also sign  
10 the sworn statement. The application shall also state whether  
11 any of the officers has ever used an alias.

12 (g) If the applicant for licensure as a repossession agency  
13 is a limited liability company, then the application shall  
14 include (i) the names and full residential addresses of all  
15 company owners and (ii) a sworn statement signed by each owner  
16 verifying the name of the person who is a licensed recovery  
17 manager and will be in control of the agency. If a licensed  
18 recovery manager who is not an owner will be in control of the  
19 agency, then he or she must also sign the sworn statement. The  
20 application shall also state whether any of the owners has ever  
21 used an alias.

22 (h) Each individual, partner of a partnership, officer of a  
23 corporation, or owner of a limited liability company shall  
24 submit with the application a copy of one form of personal  
25 identification upon which must appear a photograph taken within  
26 one year immediately preceding the date of the filing of the

1 application.

2 (i) No examination shall be required for licensure as a  
3 repossession agency by the Commission.

4 (j) The Commission may require any additional information  
5 that, in the judgment of the Commission, will enable the  
6 Commission to pass on the qualifications of the applicant for  
7 licensure.

8 (k) Applicants have 90 days from the date of application to  
9 complete the application process. If the application has not  
10 been completed within 90 days, then the application shall be  
11 denied, the fee shall be forfeited, and the applicant must  
12 reapply and meet the requirements in effect at the time of  
13 reapplication.

14 (l) Nothing in this Section precludes a domestic or foreign  
15 limited liability company being licensed as a repossession  
16 agency.

17 (m) A repossession agency license is not transferable.

18 (n) Repossessions performed in this State must be performed  
19 by repossession agencies, their employees, or agents licensed  
20 by the Commission, with the exception of financial institutions  
21 or the employees of a financial institution that are exempt  
22 under subsection (d) of Section 30 of this Act.

23 Section 37. Enforcement. It shall be unlawful for any  
24 repossession agency, employee, or agent of a repossession  
25 agency to operate in this State without a valid license or

1 recovery permit issued by the Commission. It shall be unlawful  
2 for any person or entity to forward, transfer, or subcontract  
3 an assignment to a repossession agency or its employees or  
4 agents who do not have a valid license or recovery permit  
5 issued by the Commission. The Commission may, at any time  
6 during the term of the license, make inquiry into the  
7 licensee's management or conduct of business to determine  
8 compliance with the provisions of this Act or the rules adopted  
9 pursuant to this Act.

10 Section 40. Qualifications for recovery manager;  
11 identification card.

12 (a) An applicant is qualified for licensure as a recovery  
13 manager if that person meets all of the following requirements:

14 (1) Is 21 years of age or older.

15 (2) Has not been convicted in any jurisdiction of any  
16 felony or at least 10 years has passed from the time of  
17 discharge from any sentence imposed for a felony.

18 (3) Has completed no less than 5,000 hours of actual  
19 compensated collateral recovery work as an employee of a  
20 repossession agency, a financial institution, or a vehicle  
21 dealer in the 3 years immediately preceding the filing of  
22 an application, acceptable proof of which must be submitted  
23 to the Commission.

24 (4) Has submitted to the Commission 2 sets of  
25 fingerprints, which shall be checked against the

1 fingerprint records on file with the Illinois Commerce  
2 Commission Police and the Federal Bureau of Investigation  
3 in the manner set forth in Section 60 of this Act.

4 (5) Has successfully completed the Certified Asset  
5 Recovery Specialist (C.A.R.S.) program, or any other  
6 nationally recognized certification program.

7 (6) Has paid the required application fees.

8 (b) Upon the issuance of a recovery manager license, the  
9 Commission shall issue the license holder a suitable pocket  
10 identification card that shall include a photograph of the  
11 license holder. The identification card must contain the name  
12 of the license holder and that of the repossession agency that  
13 employs the license holder, in addition to any other  
14 information required by the Commission.

15 (c) A recovery manager license is not transferable.

16 Section 45. Repossession agency employee requirements.

17 (a) All employees of a licensed repossession agency whose  
18 duties include the actual repossession of collateral must apply  
19 for a recovery permit. The holder of a repossession agency  
20 license issued under this Act, known in this Section as the  
21 "employer", may employ in the conduct of the business under the  
22 following provisions:

23 (1) No person may be issued a recovery permit who meets  
24 any of the following criteria:

25 (A) Is younger than 21 years of age.

1 (B) Has been determined by the Commission to be  
2 unfit by reason of conviction of an offense in this or  
3 another state, other than a minor traffic offense. The  
4 Commission shall adopt rules for making those  
5 determinations.

6 (C) Has had a license or recovery permit denied,  
7 suspended, or revoked under this Act.

8 (D) Has not successfully completed the Certified  
9 Asset Recovery Specialist (C.A.R.S.) program, or any  
10 other nationally recognized certification program.

11 (2) No person may be employed by a repossession agency  
12 under this Section until he or she has executed and  
13 furnished to the Commission, on forms furnished by the  
14 Commission, a verified statement to be known as an  
15 "Employee's Statement" setting forth all of the following:

16 (A) The person's full name, age, and residence  
17 address.

18 (B) The business or occupation engaged in for the 5  
19 years immediately before the date of the execution of  
20 the statement, the place where the business or  
21 occupation was engaged in, and the names of the  
22 employers, if any.

23 (C) That the person has not had a license or  
24 recovery permit denied, revoked, or suspended under  
25 this Act.

26 (D) Any conviction of a felony.



1           (E) Any other information as may be required by any  
2           rule of the Commission to show the good character,  
3           competency, and integrity of the person executing the  
4           statement.

5           (b) Each applicant for a recovery permit shall have his or  
6           her fingerprints submitted to the Commission in an electronic  
7           format that complies with the form and manner for requesting  
8           and furnishing criminal history record information as  
9           prescribed by the Illinois Commerce Commission Police. These  
10          fingerprints shall be checked against the Illinois Commerce  
11          Commission Police and Federal Bureau of Investigation criminal  
12          history record databases now and hereafter filed. The  
13          Commission shall charge applicants a fee for conducting the  
14          criminal history records check, which shall not exceed the  
15          actual cost of the records check. The Illinois Commerce  
16          Commission Police shall furnish, pursuant to positive  
17          identification, records of Illinois convictions to the  
18          Commission. The Commission, in its discretion, may allow an  
19          applicant who does not have reasonable access to a designated  
20          vendor to provide his or her fingerprints in an alternative  
21          manner. The Commission, in its discretion, may also use other  
22          procedures in performing or obtaining criminal history records  
23          checks of applicants. Instead of submitting his or her  
24          fingerprints, an individual may submit proof that is  
25          satisfactory to the Commission that an equivalent security  
26          clearance has been conducted.

1 (c) Qualified applicants shall purchase a recovery permit  
2 from a vendor designated by the Commission and in a form that  
3 the Commission prescribes. The Commission shall notify the  
4 submitting person within 10 days after receipt of the  
5 application of its intent to issue or deny the recovery permit.  
6 The holder of a recovery permit shall carry the recovery permit  
7 at all times while actually engaged in the performance of the  
8 duties of his or her employment. Expiration and requirements  
9 for renewal of recovery permits shall be established by rule of  
10 the Commission. Possession of a recovery permit does not in any  
11 way imply that the holder of the recovery permit is employed by  
12 any agency unless the recovery permit is accompanied by the  
13 employee identification card required by subsection (e) of this  
14 Section.

15 (d) Each employer shall maintain a record of each employee  
16 that is accessible to the duly authorized representatives of  
17 the Commission. The record shall contain all of the following  
18 information:

19 (1) A photograph taken within 10 days after the date  
20 that the employee begins employment with the employer. The  
21 photograph shall be replaced with a current photograph  
22 every 3 calendar years.

23 (2) The Employee's Statement specified in paragraph  
24 (2) of subsection (a) of this Section.

25 (3) All correspondence or documents relating to the  
26 character and integrity of the employee received by the

1 employer from any official source or law enforcement  
2 agency.

3 (4) In the case of former employees, the employee  
4 identification card of that person issued under subsection  
5 (e) of this Section.

6 (e) Every employer shall furnish an employee  
7 identification card to each of his or her employees. This  
8 subsection (e) shall not apply to office or clerical personnel.  
9 This employee identification card shall contain a recent  
10 photograph of the employee, the employee's name, the name and  
11 agency license number of the employer, the employee's personal  
12 description, the signature of the employer, the signature of  
13 that employee, the date of issuance, and an employee  
14 identification card number.

15 (f) No employer may issue an employee identification card  
16 to any person who is not employed by the employer in accordance  
17 with this Section or falsely state or represent that a person  
18 is or has been in his or her employ. It is unlawful for an  
19 applicant for registration to file with the Commission the  
20 fingerprints of a person other than himself or herself or to  
21 fail to exercise due diligence in resubmitting replacement  
22 fingerprints for those employees who have had original  
23 fingerprint submissions returned as unclassifiable.

24 (g) Every employer shall obtain the identification card of  
25 every employee who terminates employment with the employer.

26 (h) No agency may employ any person to perform any activity

1 under this Act unless the person possesses a valid license or  
2 recovery permit under this Act.

3 (i) Notwithstanding the provisions of subsection (h) of  
4 this Section, an agency may employ a person in a temporary  
5 capacity if all of the following conditions are met:

6 (1) The agency completes in its entirety and submits to  
7 the Commission an application for a recovery permit,  
8 including the required fees.

9 (2) The agency has verification from the Commission  
10 that the applicant has no record of any criminal conviction  
11 pursuant to the criminal history records check conducted by  
12 the Illinois Commerce Commission Police. The agency shall  
13 maintain the verification of the results of the Illinois  
14 Commerce Commission Police criminal history records check  
15 as part of the employee record as required under subsection  
16 (d) of this Section.

17 (3) The agency exercises due diligence to ensure that  
18 the person is qualified under the requirements of the Act  
19 to be issued a recovery permit.

20 (4) The agency maintains a separate roster of the names  
21 of all employees whose applications are currently pending  
22 with the Commission and submits the roster to the  
23 Commission on a monthly basis. Rosters are to be maintained  
24 by the agency for a period of at least 24 months. An agency  
25 may employ an employee applicant only if (i) it either  
26 submits an employee application and all required forms and

1 fees or confirms with the Commission that an employee  
2 application and all required forms and fees have been  
3 submitted by another agency, and (ii) all other  
4 requirements of this Section are met. The Commission shall  
5 have the authority to revoke, without a hearing, the  
6 temporary authority of an individual to work upon receipt  
7 of Federal Bureau of Investigation fingerprint data or the  
8 report of another official authority indicating a criminal  
9 conviction. If the Commission has not received a temporary  
10 employee's Federal Bureau of Investigation fingerprint  
11 data within 120 days after the date the Commission received  
12 the Illinois Commerce Commission Police fingerprint data,  
13 then the Commission may, at its discretion, revoke the  
14 employee's temporary authority to work with 15 days written  
15 notice to the individual and the employing agency.

16 An agency may not employ a person in a temporary capacity  
17 if it knows or reasonably should know that the person has been  
18 convicted of a crime under the laws of this State, has been  
19 convicted in another state of any crime that is a crime under  
20 the laws of this State, has been convicted of any crime in  
21 federal court, or has been posted as an unapproved applicant by  
22 the Commission. Notice by the Commission to the agency, via  
23 certified mail, personal delivery, electronic mail, or posting  
24 on an internet site accessible to the agency that the person  
25 has been convicted of a crime shall be deemed constructive  
26 knowledge of the conviction on the part of the agency. The

1 Commission may adopt rules to implement this subsection (i).

2 (j) If information is discovered affecting the  
3 registration of a person whose fingerprints were submitted  
4 under this Section, then the Commission shall so notify the  
5 agency that submitted the fingerprints on behalf of that  
6 person.

7 (k) A person employed under this Section shall have 15  
8 business days within which to notify the Commission of any  
9 change in employer. Upon notification and payment of the  
10 required fee, the Commission shall issue that person a new  
11 recovery card, provided that the person's current employer is a  
12 licensed repossession agency.

13 (l) This Section applies only to those employees of  
14 licensed repossession agencies whose duties include actual  
15 repossession of collateral.

16 Section 50. Fees.

17 (a) The Commission shall establish by rule license and  
18 permit fees, which shall not exceed the following:

19 (1) Class "R" license (recovery agency), \$825.

20 (2) Class "RR" license (branch office), \$425.

21 (3) Class "MR" license (recovery agency manager),  
22 \$325.

23 (4) Class "E" recovery permit (recovery agent), \$75.

24 (5) Class "EE" recovery permit (recovery agent  
25 intern), \$75.

1           (b) The Commission may establish by rule a fee for the  
2 replacement or revision of a license or recovery permit.

3           (c) The fees set forth in the Section must be paid by  
4 certified check or money order, or at the discretion of the  
5 Commission, by agency check at the time the application is  
6 approved, except that an applicant for a Class "E", Class "EE",  
7 or Class "MR" license or permit must pay the license or permit  
8 fee at the time the application is made. If a license or permit  
9 is revoked or denied, or if an application is withdrawn, then  
10 the license or permit fee shall not be refunded.

11           Section 55. Social Security Number or Federal Employee  
12 Identification Number on application. In addition to any other  
13 information required by the Commission to be contained in the  
14 application, every application for original, renewal, or  
15 restored license or permit shall include the applicant's Social  
16 Security Number, if an individual, or Federal Employer  
17 Identification Number, if not an individual. The Commission  
18 shall not disclose an individual's Social Security Number and  
19 must keep that Social Security Number confidential unless  
20 disclosure is required by law.

21           Section 60. Criminal background check. The Commission  
22 shall require that each individual, partner of a partnership,  
23 officer of a corporation, or owner of a limited liability  
24 company, as part of the application process, authorize a

1 criminal history records check to determine if such applicant  
2 has ever been charged with a crime and if so, the disposition  
3 of those charges. Upon this authorization, each individual,  
4 partner of a partnership, officer of a corporation, or owner of  
5 a limited liability company shall submit his or her  
6 fingerprints to the Commission in the form and manner  
7 prescribed by the Illinois Commerce Commission Police. These  
8 fingerprints shall be checked against the fingerprint records  
9 now and hereafter filed in the Illinois Commerce Commission  
10 Police and Federal Bureau of Investigation criminal history  
11 records databases. The Commission shall charge a fee for  
12 conducting the criminal history records check, which shall be  
13 deposited in the Transportation Regulatory Fund and shall not  
14 exceed the actual cost of the records check. The Illinois  
15 Commerce Commission Police shall provide information  
16 concerning any criminal charges, and their disposition, now or  
17 hereafter filed against an applicant upon request of the  
18 Commission when the request is made in the form and manner  
19 required by the Illinois Commerce Commission Police.

20 Section 65. Licensed recovery manager in control of  
21 repossession agency.

22 (a) As a condition of licensure, a licensed recovery  
23 manager must, at all times, be in control of a repossession  
24 agency. Each licensed repossession agency and licensed branch  
25 office location must have a licensed recovery manager on site.



1 The licensed recovery manager in control must spend over 51% of  
2 the usual business hours conducting business related to  
3 collateral recovery at the licensed location.

4 (b) A licensed recovery manager may only be in control of  
5 one repossession agency or branch office location at one time.  
6 Upon written request by a representative of an agency within 10  
7 days after the loss of the licensed recovery manager in control  
8 due to the death of the license holder or because of an  
9 unanticipated termination of his or her employment, the  
10 Commission shall issue a temporary permit allowing the  
11 continuing operation of a previously licensed repossession  
12 agency. The temporary permit shall be valid for no more than 90  
13 days. Upon written request by the representative of the agency,  
14 an extension of an additional 90 days may be granted by the  
15 Commission for good cause shown. No more than 2 extensions may  
16 be granted to any repossession agency. A temporary permit may  
17 not be issued for loss of the licensed recovery manager in  
18 control if that loss is due to disciplinary action taken by the  
19 Commission.

20 (c) Whenever a licensed recovery manager in control of a  
21 repossession agency ceases to be in control, the licensed  
22 agency shall file notice with the Commission within 30 days  
23 after the cessation. If the repossession agency fails to give  
24 written notice at the end of the 30-day period, then the  
25 agency's license shall automatically be suspended. If the  
26 notice is filed, then the license shall remain in force for a

1 period of 90 days after the filing of the notice. At the end of  
2 the 90-day period or an additional period, not to exceed one  
3 year, as specified by the Commission, if written notice is not  
4 given that a licensed recovery manager is then in control of  
5 the agency, then the agency's license shall automatically be  
6 suspended. A license suspended under this Section may be  
7 reinstated upon payment of a reinstatement fee, to be  
8 determined by the Commission, and submission of a reinstatement  
9 application.

10 (d) Except as otherwise provided in this Act, no person may  
11 serve as the licensed recovery manager in control of a licensed  
12 repossession agency if that person has ever had a repossession  
13 agency's license revoked or if the person was a partner,  
14 managing employee, owner, or officer of a repossession agency  
15 the license of which has been revoked for cause.

16 (e) The license of the recovery manager in control of a  
17 licensed repossession agency, together with the agency's  
18 license, shall be conspicuously displayed at the agency  
19 location of which the recovery manager is in control.

20 (f) A license extended under this Section is subject to all  
21 other provisions of this Act.

22 Section 70. License extension in cases of death or  
23 disassociation.

24 (a) In the case of the death of a person who is licensed  
25 individually as a repossession agency, a member of the

1 deceased's immediate family shall be entitled to continue  
2 operating the agency under the same license for up to 120 days  
3 following the date of death, provided that written notice is  
4 given to the Commission within 30 days following the date of  
5 death. At the end of the 120-day period, the license shall  
6 automatically be revoked.

7 (b) In the case of the death or disassociation of a partner  
8 of a partnership licensed as a repossession agency, the company  
9 shall notify the Commission, in writing, within 30 days from  
10 the death or disassociation of the partner. If they fail to  
11 notify the Commission within the 30-day period, then the  
12 license shall automatically be revoked at the end of that  
13 period. If proper notice is given, then the license shall  
14 remain in force for 90 days following the date of death or  
15 disassociation of the partner. At the end of the 90-day period,  
16 the license shall automatically be revoked.

17 (c) A license extended under this Section is subject to all  
18 other provisions of this Act.

19 Section 75. Licenses and recovery permits; renewals;  
20 restoration; person in military service.

21 (a) An original Class "R" license, Class "RR" license, and  
22 Class "MR" license, shall expire 2 years after the date of  
23 issuance.

24 (b) An original Class "E" recovery permit and Class "EE"  
25 recovery permit shall expire one year after the date of

1 issuance.

2 (c) A renewal Class "R" license, Class "RR" license and  
3 Class "MR" license shall expire 2 years after the date of  
4 renewal.

5 (d) A renewal Class "E" recovery permit and Class "EE"  
6 recovery permit shall expire one year after the date of  
7 renewal.

8 (e) The following are guidelines for the classes of  
9 licensure and registration:

10 (1) Any person, firm, company, partnership, or  
11 corporation that engages in business as a recovery agency  
12 shall have a Class "R" license. A Class "R" license is  
13 valid for only one location.

14 (2) Each branch office of a Class "R" agency shall have  
15 a Class "RR" license.

16 (3) Any individual who performs the services of a  
17 manager for a Class "R" recovery agency or a Class "RR"  
18 branch office must have a Class "MR" license.

19 (4) Any individual who performs recovery services as a  
20 repossession agency employee for a Class "R" recovery  
21 agency or a Class "RR" branch office must have a Class "E"  
22 recovery permit.

23 (5) Any individual who performs repossessions as an  
24 intern under the direction and control of a designated,  
25 sponsoring Class "E" recovery permit or a designated,  
26 sponsoring Class "MR" license shall have a Class "EE"

1 recovery permit.

2 (6) An individual shall have a Class "E" recovery  
3 permit if he or she owns or is an employee of a Class "R"  
4 agency or Class "RR" branch office.

5 (7) Class "R", Class "RR", Class "MR", Class "E", and  
6 Class "EE" licenses and recovery permits are not  
7 transferable.

8 (f) At least 90 days prior to the expiration of a license  
9 or recovery permit, the Commission shall mail to the license or  
10 permit holder a renewal form in the form and manner prescribed  
11 by the Commission. The license holder or recovery permit holder  
12 must complete and mail the renewal form to the Commission, pay  
13 any fines assessed, and pay any renewal fee required by the  
14 Commission.

15 (g) Any person or entity that has permitted a license or  
16 recovery permit to expire may have that license or recovery  
17 permit restored by making an application to the Commission  
18 within one year after the expiration of a repossession agency's  
19 license or a qualified manager license or within 30 days after  
20 the expiration of a recovery permit, filing proof acceptable to  
21 the Commission of fitness to have the license or recovery  
22 permit restored, and paying the required restoration fee.  
23 However, any person whose license or recovery permit expired  
24 while (i) in federal service on active duty with the Armed  
25 Forces of the United States or called into service or training  
26 with the State militia or (ii) in training or education under

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

10 (h) A suspended repossession agency license, recovery  
11 manager license, or recovery permit is subject to expiration as  
12 set forth in this Section. Renewal of a certificate or  
13 registration card does not entitle the license holder or  
14 recovery permit holder, while the license or recovery permit  
15 remains suspended and until it is reinstated, to engage in the  
16 licensed or permitted activity.

17 (i) A revoked repossession agency license, recovery  
18 manager license, or recovery permit is subject to expiration as  
19 set forth in this Section; however, it may not be renewed. If a  
20 revoked license or recovery permit is reinstated after its  
21 expiration, then the license holder or recovery permit holder,  
22 as a condition of reinstatement, shall pay a reinstatement fee  
23 in an amount equal to the renewal fee in effect on the last  
24 regular renewal date prior to the date on which the license or  
25 recovery permit is reinstated and any additional delinquency  
26 fee required by the Commission.

1           (j) Any person or entity that notifies the Commission, in  
2 writing on forms prescribed by the Commission, may place a  
3 license or recovery permit on inactive status and shall be  
4 excused from the payment of renewal fees until the person or  
5 entity notifies the Commission in writing of the intention to  
6 resume active practice. Any person or entity requesting that a  
7 license or recovery permit be changed from inactive to active  
8 status shall be required to pay the current renewal fee.

9           (k) Any repossession agency license holder, recovery  
10 manager license holder, or recovery permit holder whose license  
11 or recovery permit is nonrenewed or on inactive status shall  
12 not engage in the practice of recovery in this State or use the  
13 title or advertise that he, she, or it performs the services of  
14 a licensed repossession agency, licensed recovery manager, or  
15 repossession agency employee.

16           (l) Any person violating subsection (k) of this Section  
17 shall be considered to be operating a repossession agency  
18 without a license, acting as a recovery manager without a  
19 license, or acting as a repossession agency employee without a  
20 recovery permit and is subject to the disciplinary provisions  
21 of this Act.

22           (m) A repossession agency license, recovery manager  
23 license, or recovery permit that is not renewed within 3 years  
24 after its expiration may not be renewed, restored, reinstated,  
25 or reissued thereafter. The holder of the license or recovery  
26 permit may obtain a new license or recovery permit only upon

1 compliance with all of the provisions of this Act concerning  
2 the issuance of original licenses or recovery permits.

3 Section 80. Refusal, revocation, or suspension.

4 (a) The Commission may refuse to issue or renew or may  
5 revoke any license or recovery permit or may suspend, place on  
6 probation, fine, or take any disciplinary action that the  
7 Commission may deem proper, including fines not to exceed  
8 \$2,500 for each violation, with regard to any license holder or  
9 recovery permit holder for one or any combination of the  
10 following causes:

11 (1) Knowingly making any misrepresentation for the  
12 purpose of obtaining a license or recovery permit.

13 (2) Violations of this Act or its rules.

14 (3) Conviction of any crime under the laws of the  
15 United States or any state or territory thereof that is (i)  
16 a felony, (ii) a misdemeanor, an essential element of which  
17 is dishonesty, or (iii) a crime that is related to the  
18 practice of the profession.

19 (4) Aiding or abetting another in violating any  
20 provision of this Act or its rules.

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

24 (6) Violation of any court order from any State or  
25 public agency engaged in the enforcement of payment of



1 child support arrearages or for noncompliance with certain  
2 processes relating to paternity or support proceeding.

3 (7) Solicitation of professional services by using  
4 false or misleading advertising.

5 (8) A finding that the license or recovery permit was  
6 obtained by fraudulent means.

7 (9) Practicing or attempting to practice under a name  
8 other than the full name shown on the license or recovery  
9 permit or any other legally authorized name.

10 (b) The Commission may refuse to issue or may suspend the  
11 license or recovery permit of any person or entity who fails to  
12 file a return, pay the tax, penalty, or interest shown in a  
13 filed return, or pay any final assessment of tax, penalty, or  
14 interest, as required by any tax Act administered by the  
15 Department of Revenue, until the time the requirements of the  
16 tax Act are satisfied. The Commission may take into  
17 consideration any pending tax disputes properly filed with the  
18 Department of Revenue.

19 Section 85. Consideration of past crimes.

20 (a) Notwithstanding the prohibitions set forth in Sections  
21 40 and 45 of this Act, when considering the denial of a license  
22 or recovery permit on the grounds of conviction of a crime, the  
23 Commission, in evaluating the rehabilitation of the applicant  
24 and the applicant's present eligibility for a license or  
25 recovery permit, shall consider each of the following criteria:

1           (1) The nature and severity of the act or crime under  
2 consideration as grounds for denial.

3           (2) Evidence of any act committed subsequent to the act  
4 or crime under consideration as grounds for denial, which  
5 also could be considered as grounds for disciplinary action  
6 under this Act.

7           (3) The amount of time that has lapsed since the  
8 commission of the act or crime referred to in item (1) or  
9 (2) of this subsection (a).

10           (4) The extent to which the applicant has complied with  
11 any terms of parole, probation, restitution, or any other  
12 sanctions lawfully imposed against the applicant.

13           (5) Evidence, if any, of rehabilitation submitted by  
14 the applicant.

15           (b) When considering the suspension or revocation of a  
16 license or recovery permit on the grounds of conviction of a  
17 crime, the Commission, in evaluating the rehabilitation of the  
18 applicant and the applicant's present eligibility for a license  
19 or recovery permit, shall consider each of the following  
20 criteria:

21           (1) The nature and severity of the act or offense.

22           (2) The license holder's or recovery permit holder's  
23 criminal record in its entirety.

24           (3) The amount of time that has lapsed since the  
25 commission of the act or offense.

26           (4) Whether the license holder or recovery permit

1 holder has complied with any terms of parole, probation,  
2 restitution, or any other sanctions lawfully imposed  
3 against him or her.

4 (5) If applicable, evidence of expungement  
5 proceedings.

6 (6) Evidence, if any, of rehabilitation submitted by  
7 the license holder or recovery permit holder.

8 Section 90. Insurance required. No repossession agency  
9 license shall be issued unless the applicant first files with  
10 the Commission a certification of insurance evidencing  
11 coverage in the amount required under this Section. The  
12 coverage shall provide the Commission as an additional insured  
13 for the purpose of receiving all notices of modifications or  
14 cancellations of such insurance. Coverage shall be written by  
15 an insurance company that is lawfully engaged to provide  
16 insurance coverage in Illinois. Coverage shall provide for a  
17 combined single limit policy in the amount of at least  
18 \$1,000,000 per occurrence, which policy shall include  
19 commercial general liability for wrongful repossession, garage  
20 keepers, on hook, and drive-away. Coverage shall provide for a  
21 dishonesty bond policy in the amount of at least \$1,000,000.  
22 Coverage shall insure for the liability of all employees  
23 licensed or registered by the Commission while acting in the  
24 course of their employment. The agency shall notify the  
25 Commission immediately upon cancellation of the insurance

1 policy, whether the cancellation was initiated by the insurance  
2 company or the insured agency. The agency's license shall  
3 automatically be suspended on the date of cancellation of the  
4 policy, unless new evidence of insurance is provided to the  
5 Commission prior to the effective date of cancellation.

6 Section 95. Display of license required. At all times, a  
7 repossession agency's license shall be conspicuously displayed  
8 at the agency location on record with the Commission.

9 Section 100. Local government; home rule.

10 (a) Nothing in this Act shall prevent local authorities in  
11 any municipality, county, or municipality and county, by  
12 ordinance and within the exercise of the police power of the  
13 municipality or county, from requiring repossession agency and  
14 recovery manager license holders to register their names and  
15 file a copy of their State identification cards with the  
16 municipality, county, or municipality and county. No fee may be  
17 charged nor may any application be required by the municipality  
18 or county for this registration.

19 (b) A municipality or county, including a home rule unit,  
20 may not regulate individuals and entities engaged in the  
21 business of collateral recovery in a manner inconsistent with  
22 the regulation by the State of individuals and entities engaged  
23 in the business of collateral recovery under this Act. To the  
24 extent that any regulation by a municipality or county,

1 including a home rule unit, is inconsistent with any regulation  
2 by the State under this Act, it is superseded by this Act. This  
3 Section is a limitation under subsection (i) of Section 6 of  
4 Article VII of the Illinois Constitution on the concurrent  
5 exercise by home rule units of powers and functions exercised  
6 by the State.

7 Section 105. Notification of law enforcement. Prior to a  
8 repossession, the licensed repossession agency or repossession  
9 agency employee must notify the appropriate law enforcement  
10 agency located in the jurisdiction in which the licensed  
11 repossession agency or repossession agency employee plans to  
12 perform the repossession. Upon completion of the repossession,  
13 the licensed repossession agency or repossession agency  
14 employee must notify the appropriate law enforcement agency  
15 that the repossession has occurred within its jurisdiction.

16 Section 110. Repossession of vehicles.

17 (a) With regard to collateral subject to a security  
18 agreement, repossession occurs when the licensed repossession  
19 agency employee gains entry into the collateral, the collateral  
20 becomes connected to a tow vehicle, or the licensed  
21 repossession agency employee has physical care, custody, or  
22 control of the collateral.

23 (b) The licensed repossession agency shall confirm with the  
24 legal owner of a recovered vehicle whether the legal owner

1 holds a security interest in the personal effects or other  
2 property contained in or on the recovered vehicle.

3 (c) If personal effects or other property not covered by a  
4 security agreement are contained in or on a recovered vehicle  
5 at the time it is recovered, then the personal effects and  
6 other property not covered by a security agreement must be  
7 completely and accurately inventoried, and a record of the  
8 inventory shall be maintained on file with the licensed  
9 repossession agency for a period of 2 years following the date  
10 of repossession. The licensed repossession agency shall hold  
11 all personal effects and other property not covered by a  
12 security agreement until the licensed repossession agency  
13 either returns the personal effects and other property to the  
14 debtor or disposes of the personal effects and other property  
15 in accordance with this Section.

16 (d) Within 5 working days following the date of  
17 repossession, the licensed repossession agency shall give  
18 written notification to the debtor of the whereabouts of  
19 personal effects or other property inventoried. At least 45  
20 days prior to disposing of such personal effects or other  
21 property, the licensed repossession agency shall, by United  
22 States Postal Service proof of mailing or certified mail,  
23 notify the debtor of the intent to dispose of the property.  
24 Should the debtor, or his or her lawful designee, appear to  
25 retrieve the personal property prior to the date on which the  
26 licensed repossession agency is allowed to dispose of the

1 property, the licensed repossession agency shall surrender the  
2 personal property to that individual upon payment of any  
3 reasonably incurred expenses for inventory and storage.

4 (e) If personal property is not claimed within 45 days of  
5 the notice of intent to dispose, then the licensed repossession  
6 agency may dispose of the personal property at its discretion,  
7 except that illegal items or contraband shall be surrendered to  
8 a law enforcement agency, and the licensed repossession agency  
9 shall retain a receipt or other proof of surrender as part of  
10 the inventory and disposal records it maintains. The inventory  
11 of the personal property and the records regarding any disposal  
12 of personal property shall be maintained for a period of 2  
13 years in the permanent records of the licensed repossession  
14 agency and shall be made available upon request to the  
15 Commission.

16 Section 115. Deposit of fees and fines. All of the fees and  
17 fines collected under this Act shall be deposited into the  
18 Transportation Regulatory Fund and, subject to appropriation,  
19 may be used by the Commission for the administration of this  
20 Act.

21 Section 120. Payments; penalty for insufficient funds. Any  
22 person or entity who delivers a check or other payment to the  
23 Commission that is returned to the Commission unpaid by the  
24 financial institution upon which it is drawn shall pay to the

1 Commission, in addition to the amount already owed to the  
2 Commission, a fine amount as determined by the Commission. The  
3 fines imposed by this Section are in addition to any other  
4 discipline provided under this Act prohibiting unlicensed or  
5 unregistered practice or practice on a nonrenewed license or  
6 recovery permit. The Commission shall notify the person or  
7 entity that fees and fines shall be paid to the Commission by  
8 certified check or money order within 30 calendar days after  
9 notification. If, after the expiration of 30 days from the date  
10 of notification, the person or entity has failed to submit the  
11 necessary remittance, then the Commission shall automatically  
12 terminate the license or recovery permit or deny the  
13 application without hearing. If, after termination or denial,  
14 the person seeks a license or recovery permit, then the person  
15 or entity shall apply to the Commission for restoration or  
16 issuance of the license or recovery permit and pay all fees and  
17 fines due to the Commission. The Commission may establish a fee  
18 for the processing of an application for restoration of a  
19 license or recovery permit to pay all expenses of processing  
20 the application. The Commission may waive the fines due under  
21 this Section in individual cases where the Commission finds  
22 that the fines would be unreasonable or unnecessarily  
23 burdensome.

24 Section 125. Filings, formal complaints. All repossession  
25 activity correspondence relating to complaints and alleged



1 violations of this Act shall be submitted to the Commission in  
2 writing on forms and in a manner prescribed by the Commission.

3 Section 130. Roster. The Commission shall maintain a  
4 roster of names and addresses of all persons who hold valid  
5 licenses and recovery permits and all persons whose licenses or  
6 recovery permits have been suspended or revoked within the  
7 previous year.

8 Section 135. Violations; injunctions; cease and desist  
9 order.

10 (a) If any person or entity violates a provision of this  
11 Act, then the Commission may, in the name of the People of the  
12 State of Illinois, through the Attorney General of the State of  
13 Illinois, petition for an order enjoining the violation or for  
14 an order enforcing compliance with this Act. Upon the filing of  
15 a verified petition in court, the court may issue a temporary  
16 restraining order, without notice or bond, and may  
17 preliminarily and permanently enjoin the violation. If it is  
18 established that the person or entity has violated or is  
19 violating the injunction, the court may punish the offender for  
20 contempt of court. Proceedings under this Section are in  
21 addition to, and not in lieu of, all other remedies and  
22 penalties provided by this Act.

23 (b) If any person or entity practices as a repossession  
24 agency or a recovery manager or holds himself, herself, or

1     itself out as such without having a valid license or recovery  
2     permit under this Act, then any license holder or recovery  
3     permit holder, any person injured thereby, or any resident of  
4     or legal entity within the State may, in addition to the  
5     Commission, petition for relief as provided in subsection (a)  
6     of this Section.

7           (c) Whenever, in the opinion of the Commission, any person  
8     or entity violates any provision of this Act, the Commission  
9     may issue a rule to show cause why an order to cease and desist  
10    should not be entered against that person or entity. The rule  
11    shall clearly set forth the grounds relied upon by the  
12    Commission and shall provide a period of 7 days from the date  
13    of the rule to file an answer to the satisfaction of the  
14    Commission. Failure to answer to the satisfaction of the  
15    Commission shall cause an order to cease and desist to be  
16    issued immediately.

17           Section 140. Investigation; notice and hearing.     The  
18    Commission may investigate the actions or qualifications of any  
19    person or entity holding or claiming to hold a license or  
20    recovery permit. Before suspending, revoking, placing on  
21    probationary status, or taking any other disciplinary action  
22    that the Commission may deem proper with regard to any license  
23    or recovery permit, at least 30 days before the date set for  
24    the hearing, the Commission shall (i) notify the accused in  
25    writing of any charges made and the time and place for a

1 hearing on the charges, (ii) direct the accused to file a  
2 written answer to the charges under oath within 20 days after  
3 the service on the person or entity of such notice, and (iii)  
4 inform the accused that failure to file an answer shall result  
5 in a default judgment against the person or entity and the  
6 person's or entity's license or recovery permit may be  
7 suspended, revoked, placed on probationary status, or other  
8 disciplinary action taken with regard to the license or  
9 recovery permit as the Commission may deem proper.

10 In case the person or entity, after receiving notice, fails  
11 to file an answer, the person's or entity's license or recovery  
12 permit may, in the discretion of the Commission, be suspended,  
13 revoked, placed on probationary status, or the Commission, may  
14 take whatever disciplinary action it deems proper, including  
15 the imposition of a fine, without a hearing, if the act or acts  
16 charged constitute sufficient grounds for such action under  
17 this Act. This written notice and any notice in the subsequent  
18 proceedings may be served by personal delivery to the accused,  
19 or by registered or certified mail to the address last  
20 specified by the accused in the last notification to the  
21 Commission.

22 The written answer shall be served by personal delivery,  
23 certified delivery, or certified or registered mail to the  
24 Commission. At the time and place fixed in the notice, the  
25 Commission shall proceed to hear the charges and the parties or  
26 their counsel shall be accorded ample opportunity to present

1 such statements, testimony, evidence, and argument as may be  
2 pertinent to the charges or to the defense thereto. The  
3 Commission may continue such hearing from time to time. At the  
4 discretion of the Commission, the accused person's or entity's  
5 license or recovery permit may be suspended or revoked, if the  
6 evidence constitutes sufficient grounds for such action under  
7 this Act.

8 Section 145. Record of proceeding. The Commission, at its  
9 expense, shall preserve a record of all proceedings at the  
10 formal hearing of any case. The notice of hearing, complaint  
11 and all other documents in the nature of pleadings and written  
12 motions filed in the proceedings, the transcript of testimony,  
13 and orders of the Commission shall be in the record of the  
14 proceedings.

15 Section 150. Subpoenas; oaths; attendance of witnesses.  
16 The Commission has the power to subpoena and to bring before it  
17 any person and to take testimony either orally or by  
18 deposition, or both, with the same fees and mileage and in the  
19 same manner as is prescribed in civil cases in the courts of  
20 this State. The Commission and the designated hearing officer  
21 have the power to administer oaths to witnesses at any hearing  
22 that the Commission is authorized to conduct and any other  
23 oaths authorized in any Act administered by the Commission. Any  
24 circuit court may, upon application of the Commission or its

1 designee or of the applicant, license holder, or recovery  
2 permit holder against whom proceedings under this Act are  
3 pending, enter an order requiring the attendance of witnesses  
4 and their testimony, and the production of documents, papers,  
5 files, books, and records in connection with any hearing or  
6 investigation. The court may compel obedience to its order by  
7 proceedings for contempt.

8       Section 155. Recommendations for disciplinary action. At  
9 the conclusion of the hearing, the Commission shall prepare a  
10 written report of its findings and recommendations. The report  
11 shall contain a finding whether or not the accused person or  
12 entity violated this Act or failed to comply with the  
13 conditions required in this Act. The finding is not admissible  
14 in evidence against the person in a criminal prosecution  
15 brought for the violation of this Act, but the hearing and  
16 finding are not a bar to a criminal prosecution brought for the  
17 violation of this Act.

18       Section 160. Rehearing. In any hearing involving  
19 disciplinary action against a license holder or recovery permit  
20 holder, a copy of the Commission's report shall be served upon  
21 the respondent by the Commission, either personally or as  
22 provided in this Act for the service of the notice of hearing.  
23 Within 20 calendar days after service, the respondent may  
24 present to the Commission a motion in writing for a rehearing

1 that shall specify the particular grounds for rehearing. If no  
2 motion for rehearing is filed, then upon the expiration of the  
3 time specified for filing a motion, or if a motion for  
4 rehearing is denied, then upon denial, the Commission may enter  
5 an order in accordance with its own recommendations except as  
6 provided in this Act. If the respondent orders from the  
7 reporting service, and pays for, a transcript of the record  
8 within the time for filing a motion for rehearing, then the 20  
9 calendar day period within which a motion may be filed shall  
10 commence upon the delivery of the transcript to the respondent.

11 Section 165. Appointment of a hearing officer. The  
12 Commission has the authority to appoint any attorney duly  
13 licensed to practice law in the State of Illinois to serve as  
14 the hearing officer in any action for refusal to issue or renew  
15 a license or recovery permit or to discipline a license holder  
16 or recovery permit holder. The hearing officer has full  
17 authority to conduct the hearing. The hearing officer shall  
18 report his or her findings and recommendations to the  
19 Commission. The Commission has 60 calendar days from receipt of  
20 the report to review the report of the hearing officer. If the  
21 Commission disagrees with the recommendation of the hearing  
22 officer, then the Commission may issue an order in  
23 contravention of the recommendation.

24 Section 170. Hearing by other examiner. Whenever the

1 Commission is not satisfied that substantial justice has been  
2 done in revoking or suspending a license or recovery permit, or  
3 refusing to issue or renew a license or recovery permit, the  
4 Commission may order a rehearing by the same or other  
5 examiners.

6 Section 175. Order; certified copy. An order or a  
7 certified copy thereof, over the seal of the Commission, shall  
8 be prima facie proof:

9 (a) that the seal is the genuine seal of the Commission;  
10 and

11 (b) that the Commission is duly appointed and qualified.

12 Section 180. Restoration. At any time after the suspension  
13 or revocation of any license or recovery permit, the Commission  
14 may restore the license or recovery permit to the accused  
15 person, unless after an investigation and a hearing the  
16 Commission determines that restoration is not in the public  
17 interest.

18 Section 185. License and recovery permit surrender. Upon  
19 the revocation or suspension of any license or recovery permit,  
20 the license holder or recovery permit holder shall immediately  
21 surrender the license or recovery permit to the Commission. If  
22 the license holder or recovery permit holder fails to do so,  
23 then the Commission has the right to seize the license or

1 recovery permit.

2 Section 190. Summary suspension. The Commission may  
3 summarily suspend the license of a repossession agency, the  
4 license of a recovery manager, or the recovery permit of an  
5 employee without a hearing, simultaneously with the  
6 institution of proceedings for a hearing provided for in this  
7 Act, if the Commission finds that evidence in its possession  
8 indicates that a repossession agency's, recovery manager's, or  
9 employee's continuation in the business of collateral recovery  
10 would constitute an imminent danger to the public. In the event  
11 that the Commission summarily suspends a license or recovery  
12 permit without a hearing, a hearing by the Commission must be  
13 held within 30 calendar days after the suspension has occurred.

14 Section 195. Judicial review. All final administrative  
15 decisions of the Commission are subject to judicial review  
16 under the Administrative Review Law and its rules. The term  
17 "administration decision" is defined as in Section 3-101 of the  
18 Code of Civil Procedure. Proceedings for judicial review shall  
19 be commenced in the circuit court of the county in which the  
20 party applying for review resides; but if the party is not a  
21 resident of this State, the venue shall be in Sangamon County.

22 Section 200. Certification of records. The Commission  
23 shall not be required to certify any record to the court or



1 file any answer in court or otherwise appear in any court in a  
2 judicial review proceeding, unless there is filed in the court,  
3 with the complaint, a receipt from the Commission acknowledging  
4 payment of the costs of furnishing and certifying the record.  
5 Failure on the part of the plaintiff to file such a receipt in  
6 court shall be grounds for dismissal of the action.

7 Section 205. Violations; criminal penalties. Any person  
8 who is found to have violated any provision of this Act is  
9 guilty of a Class A misdemeanor for the first offense, and a  
10 Class 4 felony for a second or subsequent offense.

11 Section 210. Illinois Administrative Procedure Act. The  
12 Illinois Administrative Procedure Act is expressly adopted and  
13 incorporated in this Act as if all of the provisions of that  
14 Act were included in this Act, except that the provision of  
15 paragraph (d) of Section 10-65 of the Illinois Administrative  
16 Procedure Act, which provides that at hearings the license  
17 holder has the right to show compliance with all lawful  
18 requirements for retention, continuation, or renewal of the  
19 license, is specifically excluded. For the purpose of this Act,  
20 the notice required under Section 10-25 of the Illinois  
21 Administrative Procedure Act is deemed sufficient when mailed  
22 to the last known address of a party.

23 Section 215. The Regulatory Sunset Act is amended by adding

1 Section 4.32 as follows:

2 (5 ILCS 80/4.32 new)

3 Sec. 4.32. Act repealed on January 1, 2022. The following

4 Act is repealed on January 1, 2022:

5 The Collateral Recovery Act.

6 Section 999. Effective date. This Act takes effect upon

7 becoming law.