

1 AN ACT concerning government.

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 4.26 and by adding Section 4.36 as follows:

6 (5 ILCS 80/4.26)

7 Sec. 4.26. Acts repealed on January 1, 2016. The following
8 Acts are repealed on January 1, 2016:

9 The Illinois Athletic Trainers Practice Act.

10 The Illinois Roofing Industry Licensing Act.

11 The Illinois Dental Practice Act.

12 ~~The Collection Agency Act.~~

13 The Barber, Cosmetology, Esthetics, Hair Braiding, and
14 Nail Technology Act of 1985.

15 The Respiratory Care Practice Act.

16 The Hearing Instrument Consumer Protection Act.

17 The Illinois Physical Therapy Act.

18 The Professional Geologist Licensing Act.

19 (Source: P.A. 95-331, eff. 8-21-07; 95-876, eff. 8-21-08;
20 96-1246, eff. 1-1-11.)

21 (5 ILCS 80/4.36 new)

22 Sec. 4.36. Act repealed on January 1, 2026. The following

1 Act is repealed on January 1, 2026:

2 The Collection Agency Act.

3 Section 10. The Collection Agency Act is amended by
4 changing Sections 2, 2.03, 2.04, 3, 4, 4.5, 5, 7, 8, 8a, 8b 8c,
5 9, 9.1, 9.2, 9.3, 9.4, 9.7, 9.22, 11, 13.1, 13.2, 14a, 14b, 16,
6 17, 18, 19, 20, 21, 22, 23, 24, 26, and 27 and by adding
7 Sections 30, 35, 40, 45, 50, and 55 as follows:

8 (225 ILCS 425/2) (from Ch. 111, par. 2002)

9 (Section scheduled to be repealed on January 1, 2016)

10 Sec. 2. Definitions. In this Act:

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

18 "Board" means the Collection Agency Licensing and
19 Disciplinary Board.

20 "Charge-off balance" means an account principal and other
21 legally collectible costs, expenses, and interest accrued
22 prior to the charge-off date, less any payments or settlement.

23 "Charge-off date" means the date on which a receivable is
24 treated as a loss or expense.

1 "Credit ~~Consumer credit~~ transaction" means a transaction
2 between a natural person and another person in which property,
3 service, or money is acquired on credit by that natural person
4 from such other person primarily for personal, family, or
5 household purposes.

6 ~~"Consumer debt" or "consumer credit" means money,~~
7 ~~property, or their equivalent, due or owing or alleged to be~~
8 ~~due or owing from a natural person by reason of a consumer~~
9 ~~credit transaction.~~

10 "Creditor" means a person who extends consumer credit to a
11 debtor.

12 "Current balance" means the charge-off balance plus any
13 legally collectible costs, expenses, and interest, less any
14 credits or payments.

15 "Debt" means money, property, or their equivalent which is
16 due or owing or alleged to be due or owing from a natural
17 person to another person.

18 "Debt buyer" means a person or entity that is engaged in
19 the business of purchasing delinquent or charged-off consumer
20 loans or consumer credit accounts or other delinquent consumer
21 debt for collection purposes, whether it collects the debt
22 itself or hires a third-party for collection or an
23 attorney-at-law for litigation in order to collect such debt.

24 ~~"Debt collection" means any act or practice in connection~~
25 ~~with the collection of consumer debts.~~

26 ~~"Debt collector", "collection agency", or "agency" means~~

1 ~~any person who, in the ordinary course of business, regularly,~~
2 ~~on behalf of himself or herself or others, engages in debt~~
3 ~~collection.~~

4 "Debtor" means a ~~natural~~ person from whom a collection
5 agency ~~debt collector~~ seeks to collect a consumer or commercial
6 debt that is due and owing or alleged to be due and owing from
7 such person.

8 "Department" means ~~Division of Professional Regulation~~
9 ~~within~~ the Department of Financial and Professional
10 Regulation.

11 ~~"Director" means the Director of the Division of~~
12 ~~Professional Regulation within the Department of Financial and~~
13 ~~Professional Regulation.~~

14 "Person" means a natural person, partnership, corporation,
15 limited liability company, trust, estate, cooperative,
16 association, or other similar entity.

17 "Registered collection agency" means a person who is
18 registered under this Act to engage in the practice of debt
19 collection in Illinois.

20 "Secretary" means the Secretary of Financial and
21 Professional Regulation.

22 (Source: P.A. 97-1070, eff. 1-1-13.)

23 (225 ILCS 425/2.03) (from Ch. 111, par. 2005)

24 (Section scheduled to be repealed on January 1, 2016)

25 Sec. 2.03. Exemptions. This Act does not apply to persons

1 whose collection activities are confined to and are directly
2 related to the operation of a business other than that of a
3 collection agency, and specifically does not include the
4 following:

5 1. Banks, including trust departments, affiliates, and
6 subsidiaries thereof, fiduciaries, and financing and
7 lending institutions (except those who own or operate
8 collection agencies);

9 2. Abstract companies doing an escrow business;

10 3. Real estate brokers when acting in the pursuit of
11 their profession;

12 4. Public officers and judicial officers acting under
13 order of a court;

14 5. Licensed attorneys at law;

15 6. Insurance companies;

16 7. Credit unions, including affiliates and
17 subsidiaries thereof (except those who own or operate
18 collection agencies);

19 8. Loan and finance companies, including entities
20 licensed pursuant to the Residential Mortgage License Act
21 of 1987;

22 9. Retail stores collecting their own accounts;

23 10. Unit Owner's Associations established under the
24 Condominium Property Act, and their duly authorized
25 agents, when collecting assessments from unit owners; and

26 11. Any person or business under contract with a

1 creditor to notify the creditor's debtors of a debt using
2 only the creditor's name.

3 (Source: P.A. 95-437, eff. 1-1-08.)

4 (225 ILCS 425/2.04) (from Ch. 111, par. 2005.1)

5 (Section scheduled to be repealed on January 1, 2016)

6 Sec. 2.04. Child support debt ~~indebtedness~~.

7 (a) Collection agencies ~~Persons, associations,~~
8 ~~partnerships, corporations, or other legal entities~~ engaged in
9 the business of collecting child support debt ~~indebtedness~~
10 owing under a court order as provided under the Illinois Public
11 Aid Code, the Illinois Marriage and Dissolution of Marriage
12 Act, ~~the Non-Support of Spouse and Children Act,~~ the
13 Non-Support Punishment Act, the Illinois Parentage Act of 1984,
14 or similar laws of other states are not restricted (i) in the
15 frequency of contact with an obligor who is in arrears, whether
16 by phone, mail, or other means, (ii) from contacting the
17 employer of an obligor who is in arrears, (iii) from publishing
18 or threatening to publish a list of obligors in arrears, (iv)
19 from disclosing or threatening to disclose an arrearage that
20 the obligor disputes, but for which a verified notice of
21 delinquency has been served under the Income Withholding for
22 Support Act (or any of its predecessors, Section 10-16.2 of the
23 Illinois Public Aid Code, Section 706.1 of the Illinois
24 Marriage and Dissolution of Marriage Act, Section 22 4.1 of the
25 Non-Support Punishment ~~of Spouse and Children~~ Act, Section 26.1

1 of the Revised Uniform Reciprocal Enforcement of Support Act,
2 or Section 20 of the Illinois Parentage Act of 1984), or (v)
3 from engaging in conduct that would not cause a reasonable
4 person mental or physical illness. For purposes of this
5 subsection, "obligor" means an individual who owes a duty to
6 make periodic payments, under a court order, for the support of
7 a child. "Arrearage" means the total amount of an obligor's
8 unpaid child support obligations.

9 (a-5) A collection agency may not impose a fee or charge,
10 including costs, for any child support payments collected
11 through the efforts of a federal, State, or local government
12 agency, including but not limited to child support collected
13 from federal or State tax refunds, unemployment benefits, or
14 Social Security benefits.

15 No collection agency that collects child support payments
16 shall (i) impose a charge or fee, including costs, for
17 collection of a current child support payment, (ii) fail to
18 apply collections to current support as specified in the order
19 for support before applying collection to arrears or other
20 amounts, or (iii) designate a current child support payment as
21 arrears or other amount owed. In all circumstances, the
22 collection agency shall turn over to the obligee all support
23 collected in a month up to the amount of current support
24 required to be paid for that month.

25 As to any fees or charges, including costs, retained by the
26 collection agency, that agency shall provide documentation to

1 the obligee demonstrating that the child support payments
2 resulted from the actions of the agency.

3 After collection of the total amount or arrearage,
4 including statutory interest, due as of the date of execution
5 of the collection contract, no further fees may be charged.

6 (a-10) The Department ~~of Professional Regulation~~ shall
7 determine a fee rate of not less than 25% but not greater than
8 35%, based upon presentation by the licensees as to costs to
9 provide the service and a fair rate of return. This rate shall
10 be established by administrative rule.

11 Without prejudice to the determination by the Department of
12 the appropriate rate through administrative rule, a collection
13 agency shall impose a fee of not more than 29% of the amount of
14 child support actually collected by the collection agency
15 subject to the provisions of subsection (a-5). This interim
16 rate is based upon the March 2002 General Account Office report
17 "Child Support Enforcement", GAO-02-349. This rate shall apply
18 until a fee rate is established by administrative rule.

19 (b) The Department shall adopt rules necessary to
20 administer and enforce the provisions of this Section.

21 (Source: P.A. 93-896, eff. 8-10-04; 94-414, eff. 12-31-05.)

22 (225 ILCS 425/3) (from Ch. 111, par. 2006)

23 (Section scheduled to be repealed on January 1, 2016)

24 Sec. 3. A person, ~~association, partnership, corporation,~~
25 ~~or other legal entity~~ acts as a collection agency when he, she,

1 or it:

2 (a) Engages in the business of collection for others of
3 any account, bill or other debt ~~indebtedness~~;

4 (b) Receives, by assignment or otherwise, accounts,
5 bills, or other debt ~~indebtedness~~ from any person owning or
6 controlling 20% or more of the business receiving the
7 assignment, with the purpose of collecting monies due on
8 such account, bill or other debt ~~indebtedness~~;

9 (c) Sells or attempts to sell, or gives away or
10 attempts to give away to any other person, other than one
11 registered under this Act, any system of collection,
12 letters, demand forms, or other printed matter where the
13 name of any person, other than that of the creditor,
14 appears in such a manner as to indicate, directly or
15 indirectly, that a request or demand is being made by any
16 person other than the creditor for the payment of the sum
17 or sums due or asserted to be due;

18 (d) Buys accounts, bills or other debt ~~indebtedness~~ and
19 ~~engages in collecting the same; or~~

20 (e) Uses a fictitious name in collecting its own
21 accounts, bills, or debts with the intention of conveying
22 to the debtor that a third party has been employed to make
23 such collection; or -

24 (f) Engages in the business of collection of a check or
25 other payment that is returned unpaid by the financial
26 institution upon which it is drawn.

1 (Source: P.A. 94-414, eff. 12-31-05; 95-437, eff. 1-1-08.)

2 (225 ILCS 425/4) (from Ch. 111, par. 2007)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 4. No collection agency shall operate in this State,
5 directly or indirectly engage in the business of collecting
6 debt, solicit debt claims for others, have a sales office, a
7 client, or solicit a client in this State, exercise the right
8 to collect, or receive payment for another of any debt account,
9 ~~bill or other indebtedness,~~ without registering under this Act
10 except that no collection agency shall be required to be
11 licensed ~~or maintain an established business address in this~~
12 ~~State~~ if the agency's activities in this State are limited to
13 collecting debts from debtors located in this State by means of
14 interstate communication, including telephone, mail, or
15 facsimile transmission, electronic mail, or any other Internet
16 communication from the agency's location in another state
17 provided they are licensed in that state and these same
18 privileges are permitted in that licensed state to agencies
19 licensed in Illinois.

20 (Source: P.A. 88-363; 89-387, eff. 1-1-96.)

21 (225 ILCS 425/4.5)

22 (Section scheduled to be repealed on January 1, 2016)

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

24 (a) Any person who practices, offers to practice, attempts

1 to practice, or holds oneself out to practice as a collection
2 agency without being licensed under this Act shall, in addition
3 to any other penalty provided by law, pay a civil penalty to
4 the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for
5 each offense as determined by the Department. The civil penalty
6 shall be assessed by the Department after a hearing is held in
7 accordance with the provisions set forth in this Act regarding
8 the provision of a hearing for the discipline of a licensee.

9 (b) The Department has the authority and power to
10 investigate any and all unlicensed activity. In addition to
11 taking any other action provided under this Act, whenever the
12 Department has reason to believe a person, ~~association,~~
13 ~~partnership, corporation, or other legal entity~~ has violated
14 any provision of subsection (a) of this Section, the Department
15 may issue a rule to show cause why an order to cease and desist
16 should not be entered against that person, ~~association,~~
17 ~~partnership, corporation, or other legal entity~~. The rule shall
18 clearly set forth the grounds relied upon by the Department and
19 shall provide a period of 7 days from the date of the rule to
20 file an answer to the satisfaction of the Department. Failure
21 to answer to the satisfaction of the Department shall cause an
22 order to cease and desist to be issued immediately.

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

1 any court of record.

2 (d) All moneys collected under this Section shall be
3 deposited into the General Professions Dedicated Fund.

4 (Source: P.A. 94-414, eff. 12-31-05.)

5 (225 ILCS 425/5) (from Ch. 111, par. 2008)

6 (Section scheduled to be repealed on January 1, 2016)

7 Sec. 5. Application for original license. Application for
8 license ~~registration~~ shall be made to the Secretary ~~Director~~ on
9 forms provided by the Department, shall be accompanied by the
10 required fee and shall state:

11 (1) the applicant's name and address;

12 (2) the names and addresses of the officers of the
13 collection agency and, if the collection agency is a
14 corporation, the names and addresses of all persons owning
15 10% or more of the stock of such corporation, if the
16 collection agency is a partnership, the names and addresses
17 of all partners of the partnership holding a 10% or more
18 interest in the partnership, ~~and,~~ if the collection agency
19 is a limited liability company, the names and addresses of
20 all members holding 10% or more interest in the limited
21 liability company, and if the collection agency is any
22 other legal business entity, the names and addresses of all
23 persons owning 10% or more interest in the entity; and

24 (3) such other information as the Department may deem
25 necessary.

1 (Source: P.A. 94-414, eff. 12-31-05.)

2 (225 ILCS 425/7) (from Ch. 111, par. 2010)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 7. Qualifications for license. In order to be
5 qualified to obtain a certificate or a renewal certificate
6 under this Act, a collection agency's officers shall:

7 (a) be of good moral character and of the age of 18 years
8 or more; and

9 (b) (blank); ~~have had at least one year experience working~~
10 ~~in the credit field or a related area, or be qualified for an~~
11 ~~original license under Section 6 (c) of this Act;~~

12 (c) have an acceptable credit rating, have no unsatisfied
13 judgments; and not have been officers and owners of 10% or more
14 interest of a former registrant under this Act whose
15 certificates were suspended or revoked without subsequent
16 reinstatement.

17 (Source: P.A. 89-387, eff. 1-1-96.)

18 (225 ILCS 425/8) (from Ch. 111, par. 2011)

19 (Section scheduled to be repealed on January 1, 2016)

20 Sec. 8. Bond requirement. ~~A Before issuing a certificate or~~
21 ~~renewing one, the Director shall require each~~ collection agency
22 shall be required to file and maintain in force a surety bond,
23 issued by an insurance company authorized to transact fidelity
24 and surety business in the State of Illinois. The bond shall be

1 for the benefit of creditors who obtain a judgment from a court
2 of competent jurisdiction based on the failure of the agency to
3 remit money collected on account and owed to the creditor. No
4 action on the bond shall be commenced more than one year after
5 the creditor obtains a judgment against the collection agency
6 from a court of competent jurisdiction. The bond shall be in
7 the form prescribed by the Secretary ~~Director~~ in the sum of
8 \$25,000. The bond shall be continuous in form and run
9 concurrently with the original and each renewal license period
10 unless terminated by the insurance company. An insurance
11 company may terminate a bond and avoid further liability by
12 filing a 60-day notice of termination with the Department and
13 at the same time sending the same notice to the agency. A
14 certificate of registration shall be cancelled on the
15 termination date of the agency's bond unless a new bond is
16 filed with the Department to become effective at the
17 termination date of the prior bond. If a certificate of
18 registration has been cancelled under this Section, the agency
19 must file a new application and will be considered a new
20 applicant if it obtains a new bond.

21 (Source: P.A. 84-242.)

22 (225 ILCS 425/8a) (from Ch. 111, par. 2011a)

23 (Section scheduled to be repealed on January 1, 2016)

24 Sec. 8a. Fees.

25 (a) ~~The Department shall provide by rule for a schedule of~~

1 fees for the administration and enforcement of this Act,
2 including but not limited to original licensure, renewal, and
3 restoration, shall be set by the Department by rule. The fees
4 shall be nonrefundable.

5 (b) All fees collected under this Act shall be deposited
6 into the General Professions Dedicated Fund and shall be
7 appropriated to the Department for the ordinary and contingent
8 expenses of the Department in the administration of this Act.

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

10 (225 ILCS 425/8b) (from Ch. 111, par. 2011b)

11 (Section scheduled to be repealed on January 1, 2016)

12 Sec. 8b. Assignment for collection. An account may be
13 assigned to a collection agency for collection with title
14 passing to the collection agency to enable collection of the
15 account in the agency's name as assignee for the creditor
16 provided:

17 (a) The assignment is manifested by a written agreement,
18 separate from and in addition to any document intended for the
19 purpose of listing a debt with a collection agency. The
20 document manifesting the assignment shall specifically state
21 and include:

22 (i) the effective date of the assignment; and

23 (ii) the consideration for the assignment.

24 (b) The consideration for the assignment may be paid or
25 given either before or after the effective date of the

1 assignment. The consideration may be contingent upon the
2 settlement or outcome of litigation and if the debt claim being
3 assigned has been listed with the collection agency as an
4 account for collection, the consideration for assignment may be
5 the same as the fee for collection.

6 (c) All assignments shall be voluntary and properly
7 executed and acknowledged by the corporate authority or
8 individual transferring title to the collection agency before
9 any action can be taken in the name of the collection agency.

10 (d) No assignment shall be required by any agreement to
11 list a debt with a collection agency as an account for
12 collection.

13 (e) No litigation shall commence in the name of the
14 licensee as plaintiff unless: (i) there is an assignment of the
15 account that satisfies the requirements of this Section and
16 (ii) the licensee is represented by a licensed attorney at law.

17 (f) If a collection agency takes assignments of accounts
18 from 2 or more creditors against the same debtor and commences
19 litigation against that debtor in a single action, in the name
20 of the collection agency, then (i) the complaint must be stated
21 in separate counts for each assignment and (ii) the debtor has
22 an absolute right to have any count severed from the rest of
23 the action.

24 (Source: P.A. 89-387, eff. 1-1-96.)

25 (225 ILCS 425/8c) (from Ch. 111, par. 2011c)

1 (Section scheduled to be repealed on January 1, 2016)

2 Sec. 8c. (a) Each licensed collection agency ~~office~~ shall
3 at all times maintain a separate bank account in which all
4 monies received on debts ~~claims~~ shall be deposited, referred to
5 as a "Trust Account", except that negotiable instruments
6 received may be forwarded directly to a creditor if such
7 procedure is provided for by a writing executed by the
8 creditor. Monies received shall be so deposited within 5
9 business days after posting to the agency's books of account.

10 There shall be sufficient funds in the trust account at all
11 times to pay the creditors the amount due them.

12 (b) The trust account shall be established in a bank,
13 savings and loan association, or other recognized depository
14 which is federally or State insured or otherwise secured as
15 defined by rule. Such account may be interest bearing. The
16 licensee shall pay to the creditor interest earned on funds on
17 deposit after the sixtieth day.

18 (c) Notwithstanding any contractual arrangement, every
19 client of a licensee shall within 60 days after the close of
20 each calendar month, account and pay to the licensee collection
21 agency all sums owed to the collection agency for payments
22 received by the client during that calendar month on debts
23 ~~claims~~ in possession of the collection agency. If a client
24 fails to pay the licensee any sum due under this Section, the
25 licensee shall, in addition to other remedies provided by law,
26 have the right to offset any money due the licensee under this

1 Section against any moneys due the client.

2 (d) Each collection agency shall keep on file the name of
3 the bank, savings and loan association, or other recognized
4 depository in which each trust account is maintained, the name
5 of each trust account, and the names of the persons authorized
6 to withdraw funds from each account.

7 The collection agency, within 30 days of the time of a
8 change of depository or person authorized to make withdrawal,
9 shall update its files to reflect such change.

10 An examination and audit of an agency's trust accounts may
11 be made by the Department as the Department deems appropriate.

12 A trust account financial report shall be submitted
13 annually on forms provided by the Department.

14 (Source: P.A. 89-387, eff. 1-1-96.)

15 (225 ILCS 425/9) (from Ch. 111, par. 2012)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 9. Disciplinary actions.

18 (a) The Department may refuse to issue or renew, or may
19 revoke, suspend, place on probation, reprimand or take other
20 disciplinary or non-disciplinary action as the Department may
21 deem proper, including fines not to exceed \$5,000 for a first
22 violation and not to \$10,000 for each violation with regard to
23 any collection agency license ~~exceed \$10,000 for a second or~~
24 ~~subsequent violation,~~ for any one or any combination of the
25 following causes:

1 (1) Material misstatement in furnishing information to
2 the Department.

3 (2) ~~(1)~~ Violations of this Act or of the rules
4 promulgated hereunder.

5 (3) ~~(2)~~ Conviction by plea of guilty or nolo

6 contendere, finding of guilt, jury verdict, or entry of

7 judgment or by sentencing of any crime, including, but not

8 limited to, convictions, preceding sentences of

9 supervision, conditional discharge, or first offender

10 probation of the collection agency or any of the officers

11 or owners of more than 10% interest ~~principals~~ of the

12 agency of any crime under the laws of any U.S. jurisdiction

13 that (i) is a felony, (ii) is a misdemeanor, an essential

14 element of which is dishonesty, or (iii) is directly

15 related to the practice of a collection agency ~~any U.S.~~

16 ~~jurisdiction which is a felony, a misdemeanor an essential~~

17 ~~element of which is dishonesty, or of any crime which~~

18 ~~directly relates to the practice of the profession.~~

19 (4) Fraud or ~~(3)~~ Making any misrepresentation in

20 applying for, or procuring, a license under this Act or in

21 connection with applying for renewal of ~~for the purpose of~~

22 ~~obtaining~~ a license under this Act ~~or certificate.~~

23 (5) Aiding or assisting another person in violating any

24 provision of this Act or rules adopted under this Act.

25 (6) Failing, within 60 days, to provide information in

26 response to a written request made by the Department.

1 (7) ~~(4)~~ Habitual or excessive use or addiction to
2 alcohol, narcotics, stimulants or any other chemical agent
3 or drug which results in the inability to practice with
4 reasonable judgment, skill, or safety by any of the
5 officers or owners of 10% or more interest ~~principals~~ of a
6 collection agency.

7 (8) ~~(5)~~ Discipline by another state, the District of
8 Columbia, a territory of the United States, U.S.
9 ~~jurisdiction~~ or a foreign nation, if at least one of the
10 grounds for the discipline is the same or substantially
11 equivalent to those set forth in this Act.

12 (9) ~~(6)~~ A finding by the Department that the licensee,
13 after having his license placed on probationary status, has
14 violated the terms of probation.

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

18 (11) ~~(7)~~ Practicing or attempting to practice under a
19 false or, except as provided by law, an assumed name ~~a name~~
20 ~~other than the name as shown on his or her license or any~~
21 ~~other legally authorized name.~~

22 (12) ~~(8)~~ A finding by the Federal Trade Commission that
23 a registrant ~~licensee~~ violated the federal ~~Federal~~ Fair
24 Debt ~~and~~ Collection Practices Act or its rules.

25 (13) ~~(9)~~ Failure to file a return, or to pay the tax,
26 penalty or interest shown in a filed return, or to pay any

1 final assessment of tax, penalty or interest, as required
2 by any tax Act administered by the Illinois Department of
3 Revenue until such time as the requirements of any such tax
4 Act are satisfied.

5 (14) ~~(10)~~ Using or threatening to use force or violence
6 to cause physical harm to a debtor, his or her family or
7 his or her property.

8 (15) ~~(11)~~ Threatening to instigate an arrest or
9 criminal prosecution where no basis for a criminal
10 complaint lawfully exists.

11 (16) ~~(12)~~ Threatening the seizure, attachment or sale
12 of a debtor's property where such action can only be taken
13 pursuant to court order without disclosing that prior court
14 proceedings are required.

15 (17) ~~(13)~~ Disclosing or threatening to disclose
16 information adversely affecting a debtor's reputation for
17 credit worthiness with knowledge the information is false.

18 (18) ~~(14)~~ Initiating or threatening to initiate
19 communication with a debtor's employer unless there has
20 been a default of the payment of the obligation for at
21 least 30 days and at least 5 days prior written notice, to
22 the last known address of the debtor, of the intention to
23 communicate with the employer has been given to the
24 employee, except as expressly permitted by law or court
25 order.

26 (19) ~~(15)~~ Communicating with the debtor or any member

1 of the debtor's family at such a time of day or night and
2 with such frequency as to constitute harassment of the
3 debtor or any member of the debtor's family. For purposes
4 of this Section the following conduct shall constitute
5 harassment:

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

18 (B) The threat of publication or publication of a
19 list of consumers who allegedly refuse to pay debts,
20 except to a consumer reporting agency.

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

23 (D) Causing a telephone to ring or engaging any
24 person in telephone conversation repeatedly or
25 continuously with intent to annoy, abuse, or harass any
26 person at the called number.

1 (20) ~~(16)~~ Using profane, obscene or abusive language in
2 communicating with a debtor, his or her family or others.

3 (21) ~~(17)~~ Disclosing or threatening to disclose
4 information relating to a debtor's debt ~~indebtedness~~ to any
5 other person except where such other person has a
6 legitimate business need for the information or except
7 where such disclosure is permitted ~~regulated~~ by law.

8 (22) ~~(18)~~ Disclosing or threatening to disclose
9 information concerning the existence of a debt which the
10 collection agency ~~debt collector~~ knows to be ~~reasonably~~
11 ~~disputed~~ by the debtor without disclosing the fact that the
12 debtor disputes the debt.

13 (23) ~~(19)~~ Engaging in any conduct that is ~~which the~~
14 ~~Director finds was~~ intended to cause and did cause mental
15 or physical illness to the debtor or his or her family.

16 (24) ~~(20)~~ Attempting or threatening to enforce a right
17 or remedy with knowledge or reason to know that the right
18 or remedy does not exist.

19 (25) ~~(21)~~ Failing to disclose to the debtor or his or
20 her family the corporate, partnership or proprietary name,
21 or other trade or business name, under which the collection
22 agency ~~debt collector~~ is engaging in debt collections and
23 which he or she is legally authorized to use.

24 (26) ~~(22)~~ Using any form of communication which
25 simulates legal or judicial process or which gives the
26 appearance of being authorized, issued or approved by a

1 governmental agency or official or by an attorney at law
2 when it is not.

3 (27) ~~(23)~~ Using any badge, uniform, or other indicia of
4 any governmental agency or official except as authorized by
5 law.

6 (28) ~~(24)~~ Conducting business under any name or in any
7 manner which suggests or implies that the collection agency
8 ~~a debt collector is bonded if such collector is or is a~~
9 branch of or is affiliated in with any way with a
10 governmental agency or court if such collection agency
11 ~~collector~~ is not.

12 (29) ~~(25)~~ Failing to disclose, at the time of making
13 any demand for payment, the name of the person to whom the
14 debt claim is owed and at the request of the debtor, the
15 address where payment is to be made and the address of the
16 person to whom the debt claim is owed.

17 (30) ~~(26)~~ Misrepresenting the amount of the ~~claim or~~
18 debt alleged to be owed.

19 (31) ~~(27)~~ Representing that an existing debt may be
20 increased by the addition of attorney's fees,
21 investigation fees or any other fees or charges when such
22 fees or charges may not legally be added to the existing
23 debt.

24 (32) ~~(28)~~ Representing that the collection agency ~~debt~~
25 ~~collector~~ is an attorney at law or an agent for an attorney
26 if he or she is not.

1 (33) ~~(29)~~ Collecting or attempting to collect any
2 interest or other charge or fee in excess of the actual
3 debt ~~or claim~~ unless such interest or other charge or fee
4 is expressly authorized by the agreement creating the debt
5 ~~or claim~~ unless expressly authorized by law or unless in a
6 commercial transaction such interest or other charge or fee
7 is expressly authorized in a subsequent agreement. If a
8 contingency or hourly fee arrangement (i) is established
9 under an agreement between a collection agency and a
10 creditor to collect a debt and (ii) is paid by a debtor
11 pursuant to a contract between the debtor and the creditor,
12 then that fee arrangement does not violate this Section
13 unless the fee is unreasonable. The Department shall
14 determine what constitutes a reasonable collection fee.

15 (34) ~~(30)~~ Communicating or threatening to communicate
16 with a debtor when the collection agency ~~debt collector~~ is
17 informed in writing by an attorney that the attorney
18 represents the debtor concerning the debt claim, ~~unless~~
19 ~~authorized by the attorney~~. If the attorney fails to
20 respond within a reasonable period of time, the collector
21 may communicate with the debtor. The collector may
22 communicate with the debtor when the attorney gives his or
23 her consent.

24 (35) ~~(31)~~ Engaging in dishonorable, unethical, or
25 unprofessional conduct of a character likely to deceive,
26 defraud, or harm the public.

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

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

12 (Source: P.A. 94-414, eff. 12-31-05.)

13 (225 ILCS 425/9.1)

14 (Section scheduled to be repealed on January 1, 2016)

15 Sec. 9.1. Communication with persons other than debtor. Any
16 ~~debt collector or~~ collection agency communicating with any
17 person other than the debtor for the purpose of acquiring
18 location information about the debtor shall:

19 (1) identify himself or herself, state that he or she
20 is confirming or correcting location information
21 concerning the consumer, and, ~~only if expressly requested,~~
22 identify his or her employer;

23 (2) not state that the consumer owes any debt;

24 (3) not communicate with any person more than once
25 unless requested to do so by the person or unless the ~~debt~~

1 ~~collector or~~ collection agency reasonably believes that
2 the earlier response of the person is erroneous or
3 incomplete and that the person now has correct or complete
4 location information;

5 (4) not communicate by postcard;

6 (5) not use any language or symbol on any envelope or
7 in the contents of any communication effected by mail or
8 telegram that indicates that the ~~debt collector or~~
9 collection agency is in the debt collection business or
10 that the communication relates to the collection of a debt;
11 and

12 (6) not communicate with any person other than the
13 attorney after the ~~debt collector or~~ collection agency
14 knows the debtor is represented by an attorney with regard
15 to the subject debt and has knowledge of or can readily
16 ascertain the attorney's name and address, ~~not communicate~~
17 ~~with any person other than the attorney,~~ unless the
18 attorney fails to respond within a reasonable period of
19 time, not less than 30 days, to communication from the ~~debt~~
20 ~~collector or~~ collection agency.

21 (Source: P.A. 95-437, eff. 1-1-08; 95-876, eff. 8-21-08.)

22 (225 ILCS 425/9.2)

23 (Section scheduled to be repealed on January 1, 2016)

24 Sec. 9.2. Communication in connection with debt
25 collection.

1 (a) Without the prior consent of the debtor given directly
2 to the ~~debt collector or~~ collection agency or the express
3 permission of a court of competent jurisdiction, a ~~debt~~
4 ~~collector or~~ collection agency may not communicate with a
5 debtor in connection with the collection of any debt in any of
6 the following circumstances:

7 (1) At any unusual time, place, or manner that is known
8 or should be known to be inconvenient to the debtor. In the
9 absence of knowledge of circumstances to the contrary, a
10 ~~debt collector or~~ collection agency shall assume that the
11 convenient time for communicating with a debtor is after
12 8:00 ~~8 o'clock~~ a.m. and before 9:00 ~~9 o'clock~~ p.m. local
13 time at the debtor's location.

14 (2) If the ~~debt collector or~~ collection agency knows
15 the debtor is represented by an attorney with respect to
16 such debt and has knowledge of or can readily ascertain,
17 the attorney's name and address, unless the attorney fails
18 to respond within a reasonable period of time to a
19 communication from the ~~debt collector or~~ collection agency
20 or unless the attorney consents to direct communication
21 with the debtor.

22 (3) At the debtor's place of employment, if the ~~debt~~
23 ~~collector or~~ collection agency knows or has reason to know
24 that the debtor's employer prohibits the debtor from
25 receiving such communication.

26 (b) Except as provided in Section 9.1 of this Act, without

1 the prior consent of the debtor given directly to the ~~debt~~
2 ~~collector or~~ collection agency, ~~or~~ the express permission of a
3 court of competent jurisdiction, ~~or~~ as reasonably necessary to
4 effectuate a post judgment judicial remedy, a ~~debt collector or~~
5 collection agency may not communicate, in connection with the
6 collection of any debt, with any person other than the debtor,
7 the debtor's attorney, a consumer reporting agency if otherwise
8 permitted by law, the creditor, the attorney of the creditor,
9 or the attorney of the collection agency.

10 (c) If a debtor notifies a ~~debt collector or~~ collection
11 agency in writing that the debtor refuses to pay a debt or that
12 the debtor wishes the ~~debt collector or~~ collection agency to
13 cease further communication with the debtor, the ~~debt collector~~
14 ~~or~~ collection agency may not communicate further with the
15 debtor with respect to such debt, except to perform any of the
16 following tasks:

17 (1) Advise the debtor that the ~~debt collector's or~~
18 collection agency's further efforts are being terminated.

19 (2) Notify the debtor that the collection agency or
20 creditor may invoke specified remedies that are ordinarily
21 invoked by such collection agency or creditor.

22 (3) Notify the debtor that the collection agency or
23 creditor intends to invoke a specified remedy.

24 If such notice from the debtor is made by mail,
25 notification shall be complete upon receipt.

26 (d) For the purposes of this Section, "debtor" includes the

1 debtor's spouse, parent (if the debtor is a minor), guardian,
2 executor, or administrator.

3 (Source: P.A. 95-437, eff. 1-1-08.)

4 (225 ILCS 425/9.3)

5 (Section scheduled to be repealed on January 1, 2016)

6 Sec. 9.3. Validation of debts.

7 (a) Within 5 days after the initial communication with a
8 debtor in connection with the collection of any debt, a ~~debt~~
9 ~~collector or~~ collection agency shall, unless the following
10 information is contained in the initial communication or the
11 debtor has paid the debt, send the debtor a written notice with
12 each of the following disclosures:

13 (1) The amount of the debt.

14 (2) The name of the creditor to whom the debt is owed.

15 (3) That, unless the debtor, within 30 days after
16 receipt of the notice, disputes the validity of the debt,
17 or any portion thereof, the debt will be assumed to be
18 valid by the ~~debt collector or~~ collection agency.

19 (4) That, if the debtor notifies the ~~debt collector or~~
20 collection agency in writing within the 30-day period that
21 the debt, or any portion thereof, is disputed, the ~~debt~~
22 ~~collector or~~ collection agency will obtain verification of
23 the debt or a copy of a judgment against the debtor and a
24 copy of the verification or judgment will be mailed to the
25 debtor by the ~~debt collector or~~ collection agency.

1 (5) ~~The~~ ~~That upon the debtor's written request within~~
2 ~~the 30-day period, the debt collector or~~ collection agency
3 will provide the debtor with the name and address of the
4 original creditor, if different from the current creditor.
5 If the disclosures required under this subsection (a) are
6 placed on the back of the notice, the front of the notice
7 shall contain a statement notifying debtors of that fact.

8 (b) If the debtor notifies the ~~debt collector or~~ collection
9 agency in writing within the 30-day period set forth in
10 paragraph (3) of subsection (a) of this Section that the debt,
11 or any portion thereof, is disputed ~~or that the debtor requests~~
12 ~~the name and address of the original creditor,~~ the ~~debt~~
13 ~~collector or~~ collection agency shall cease collection of the
14 debt, or any disputed portion thereof, until the ~~debt collector~~
15 ~~or~~ collection agency obtains verification of the debt or a copy
16 of a judgment ~~or the name and address of the original creditor~~
17 and mails a copy of the verification or judgment ~~or name and~~
18 ~~address of the original creditor~~ to the debtor.

19 (c) The failure of a debtor to dispute the validity of a
20 debt under this Section shall not be construed by any court as
21 an admission of liability by the debtor.

22 (Source: P.A. 95-437, eff. 1-1-08.)

23 (225 ILCS 425/9.4)

24 (Section scheduled to be repealed on January 1, 2016)

25 Sec. 9.4. Debt collection as a result of identity theft.

1 (a) Upon receipt from a debtor of all of the following
2 information, a ~~debt collector or~~ collection agency must cease
3 collection activities until completion of the review provided
4 in subsection (d) of this Section:

5 (1) A copy of a police report filed by the debtor
6 alleging that the debtor is the victim of an identity theft
7 crime for the specific debt being collected by the
8 collection agency ~~debt collector~~.

9 (2) The debtor's written statement that the debtor
10 claims to be the victim of identity theft with respect to
11 the specific debt being collected by the collection agency
12 ~~debt collector~~, including (i) a Federal Trade Commission's
13 Affidavit of Identity Theft, (ii) an Illinois Attorney
14 General ID Theft Affidavit, or (iii) a written statement
15 that certifies that the representations are true, correct,
16 and contain no material omissions of fact to the best
17 knowledge and belief of the person submitting the
18 certification. This written statement must contain or be
19 accompanied by, each of the following, to the extent that
20 an item listed below is relevant to the debtor's allegation
21 of identity theft with respect to the debt in question:

22 (A) A statement that the debtor is a victim of
23 identity theft.

24 (B) A copy of the debtor's driver's license or
25 identification card, as issued by this State.

26 (C) Any other identification document that

1 supports the statement of identity theft.

2 (D) Specific facts supporting the claim of
3 identity theft, if available.

4 (E) Any explanation showing that the debtor did not
5 incur the debt.

6 (F) Any available correspondence disputing the
7 debt after transaction information has been provided
8 to the debtor.

9 (G) Documentation of the residence of the debtor at
10 the time of the alleged debt, which may include copies
11 of bills and statements, such as utility bills, tax
12 statements, or other statements from businesses sent
13 to the debtor and showing that the debtor lived at
14 another residence at the time the debt was incurred.

15 (H) A telephone number for contacting the debtor
16 concerning any additional information or questions or
17 direction that further communications to the debtor be
18 in writing only, with the mailing address specified in
19 the statement.

20 (I) To the extent the debtor has information
21 concerning who may have incurred the debt, the
22 identification of any person whom the debtor believes
23 is responsible.

24 (J) An express statement that the debtor did not
25 authorize the use of the debtor's name or personal
26 information for incurring the debt.

1 (b) A written certification submitted pursuant to item
2 (iii) of paragraph (2) of subsection (a) of this Section shall
3 be sufficient if it is in substantially the following form:

4 "I certify that the representations made are true, correct,
5 and contain no material omissions of fact known to me.

6 (Signature)

7 (Date)"

8 (c) If a debtor notifies a ~~debt collector or~~ collection
9 agency orally that he or she is a victim of identity theft, the
10 ~~debt collector or~~ collection agency shall notify the debtor
11 orally or in writing, that the debtor's claim must be in
12 writing. If a debtor notifies a ~~debt collector or~~ collection
13 agency in writing that he or she is a victim of identity theft,
14 but omits information required pursuant to this Section, and if
15 the ~~debt collector or~~ collection agency continues ~~does not~~
16 ~~cease~~ collection activities, the ~~debt collector or~~ collection
17 agency must provide written notice to the debtor of the
18 additional information that is required or send the debtor a
19 copy of the Federal Trade Commission's ~~Affidavit of~~ Identity
20 Theft Affidavit form.

21 (d) Upon receipt of the complete statement and information
22 described in subsection (a) of this Section, the collection
23 agency ~~debt collector~~ shall review and consider all of the

1 information provided by the debtor and other information
2 available to the ~~debt collector or~~ collection agency in its
3 file or from the creditor. The ~~debt collector or~~ collection
4 agency may recommence debt collection activities only upon
5 making a good faith determination that the information does not
6 establish that the debtor is not responsible for the specific
7 debt in question. The ~~debt collector or~~ collection agency must
8 notify the debtor ~~consumer~~ in writing of that determination and
9 the basis for that determination before proceeding with any
10 further collection activities. The ~~debt collector's or~~
11 collection agency's determination shall be based on all of the
12 information provided by the debtor and other information
13 available to the ~~debt collector or~~ collection agency in its
14 file or from the creditor.

15 (e) No inference or presumption that the debt is valid or
16 invalid or that the debtor is liable or not liable for the debt
17 may arise if the ~~debt collector or~~ collection agency decides
18 after the review described in subsection (d) to cease or
19 recommence the debt collection activities. The exercise or
20 non-exercise of rights under this Section is not a waiver of
21 any other right or defense of the debtor or collection agency
22 ~~debt collector~~.

23 (f) A ~~debt collector or~~ collection agency that (i) ceases
24 collection activities under this Section, (ii) does not
25 recommence those collection activities, and (iii) furnishes
26 adverse information to a consumer credit reporting agency, must

1 notify the consumer credit reporting agency to delete that
2 adverse information.

3 (Source: P.A. 95-437, eff. 1-1-08.)

4 (225 ILCS 425/9.7)

5 (Section scheduled to be repealed on January 1, 2016)

6 Sec. 9.7. Enforcement under the Consumer Fraud and
7 Deceptive Business Practices Act. The Attorney General may
8 enforce the knowing violation of Section 9 (except for items
9 (2) through (4), (7) through (9), (11) through (13), and (23)
10 ~~(1) through (9) and (19)~~ of subsection (a)), 9.1, 9.2, 9.3, or
11 9.4 of this Act as an unlawful practice under the Consumer
12 Fraud and Deceptive Business Practices Act.

13 (Source: P.A. 95-437, eff. 1-1-08.)

14 (225 ILCS 425/9.22) (from Ch. 111, par. 2034)

15 (Section scheduled to be repealed on January 1, 2016)

16 Sec. 9.22. Administrative Procedure Act. The Illinois
17 Administrative Procedure Act is hereby expressly adopted and
18 incorporated herein as if all of the provisions of that Act
19 were included in this Act, except that the provision of
20 subsection (d) of Section 10-65 of the Illinois Administrative
21 Procedure Act that provides that at hearings the licensee has
22 the right to show compliance with all lawful requirements for
23 retention, continuation or renewal of the license is
24 specifically excluded. For the purposes of this Act the notice

1 required under Section 10-25 of the Administrative Procedure
2 Act is deemed sufficient when mailed to the ~~last known~~ address
3 of record of a party.

4 (Source: P.A. 88-45.)

5 (225 ILCS 425/11) (from Ch. 111, par. 2036)

6 (Section scheduled to be repealed on January 1, 2016)

7 Sec. 11. Informal conferences. Informal conferences shall
8 be conducted with at least one member of the ~~Licensing and~~
9 ~~Disciplinary~~ Board in attendance. Notwithstanding any
10 provisions concerning the conduct of hearings and
11 recommendations for disciplinary actions, the Department has
12 the authority to negotiate agreements with licensees
13 ~~registrants~~ and applicants resulting in disciplinary or
14 non-disciplinary consent orders. The consent orders may
15 provide for any of the forms of discipline provided in this
16 Act. The consent orders shall provide that they were not
17 entered into as a result of any coercion by the Department.

18 (Source: P.A. 89-387, eff. 1-1-96.)

19 (225 ILCS 425/13.1) (from Ch. 111, par. 2038.1)

20 (Section scheduled to be repealed on January 1, 2016)

21 Sec. 13.1. Collection Agency Licensing and Disciplinary
22 Board; members; qualifications; duties.

23 (a) There is created in the Department the Collection
24 Agency Licensing and Disciplinary Board composed of 7 members

1 appointed by the Secretary ~~Director~~. Five members of the Board
2 shall be employed in a collection agency registered under this
3 Act and 2 members of the Board shall represent the general
4 public, ~~and~~ shall not be employed by or possess an ownership
5 interest in any collection agency registered under this Act, ~~and~~
6 and shall have no family or business connection with the
7 practice of collection agencies.

8 (b) Each of the members appointed to the Board, except for
9 the public members, shall have at least 5 years of active
10 collection agency experience.

11 (c) The Board shall annually elect a chairperson ~~chairman~~
12 ~~from among its members and shall meet at least twice each year.~~
13 The members of the Board shall receive no compensation for
14 their services, but shall be reimbursed for their necessary
15 ~~actual~~ expenses as authorized by the Department while engaged
16 in incurred in the performance of their duties.

17 (d) Members shall serve for a term of 4 years and until
18 their successors are appointed and qualified. No Board member,
19 ~~after the effective date of this amendatory Act of 1995,~~ shall
20 be appointed to more than 2 full consecutive terms. A partial
21 term of more than 2 years shall be considered a full term ~~The~~
22 ~~initial terms created by this amendatory Act of 1995 shall~~
23 ~~count as full terms for the purposes of reappointment to the~~
24 ~~Board.~~ Appointments to fill vacancies for the unexpired portion
25 of a vacated term shall be made in the same manner as original
26 appointments. All members shall serve until their successors

1 are appointed and qualified.

2 (e) The Secretary may remove any member of the Board for
3 cause at any time before the expiration of his or her term. The
4 Secretary shall be the sole arbiter of cause.

5 (f) The majority of the Board shall constitute a quorum. A
6 vacancy in the membership of the Board shall not impair the
7 right of a quorum to exercise all the duties of the Board.

8 (g) Members of the Board shall be immune from suit in any
9 action based upon disciplinary proceedings or other acts
10 performed in good faith as members of the Board.

11 ~~The appointments of those Board members currently~~
12 ~~appointed shall end upon the effective date of this amendatory~~
13 ~~Act of 1995, and those Board members currently sitting at the~~
14 ~~effective date of this amendatory Act of 1995, shall be~~
15 ~~reappointed to the following terms by and in the discretion of~~
16 ~~the Director:~~

17 ~~(1) one member shall be appointed for one year;~~

18 ~~(2) two members shall be appointed to serve 2 years;~~

19 ~~(3) two members shall be appointed to serve 3 years;~~

20 ~~and~~

21 ~~(4) two members shall be appointed to serve for 4~~
22 ~~years.~~

23 ~~All members shall serve until their successors are appointed~~
24 ~~and qualified.~~

25 ~~The Board members appointed to terms by this amendatory Act~~
26 ~~of 1995 shall be appointed as soon as possible after the~~

1 ~~effective date of this amendatory Act of 1995.~~

2 (Source: P.A. 89-387, eff. 1-1-96.)

3 (225 ILCS 425/13.2) (from Ch. 111, par. 2038.2)

4 (Section scheduled to be repealed on January 1, 2016)

5 Sec. 13.2. Powers and duties of Department. The Department
6 shall exercise the powers and duties prescribed by the Civil
7 Administrative Code of Illinois for the administration of
8 licensing Acts and shall exercise such other powers and duties
9 necessary for effectuating the purposes of this Act.

10 ~~The Director shall promulgate rules consistent with the~~
11 ~~provisions of this Act, for its administration and enforcement,~~
12 ~~and may prescribe forms which shall be issued in connection~~
13 ~~therewith. The rules shall include standards and criteria for~~
14 ~~licensure and certification, and professional conduct and~~
15 ~~discipline.~~

16 ~~The Department shall consult with the Board in promulgating~~
17 ~~rules.~~

18 Subject to the provisions of this Act, the Department may:

19 (1) Conduct hearings on proceedings to refuse to issue
20 or renew or to revoke registrations or suspend, place on
21 probation, or reprimand persons registered under this Act.

22 (2) Formulate rules required for the administration of
23 this Act.

24 (3) Obtain written recommendations from the Board
25 regarding standards of professional conduct, formal

1 disciplinary actions and the formulation of rules
2 affecting these matters. Notice of proposed rulemaking
3 shall be transmitted to the Board and the Department shall
4 review the Board's responses and any recommendations made
5 therein. ~~The Department shall notify the Board in writing~~
6 ~~with explanations of deviations from the Board's~~
7 ~~recommendations and responses.~~ The Department may ~~shall~~
8 solicit the advice of the Board on any matter relating to
9 the administration and enforcement of this Act.

10 (4) Maintain rosters of the names and addresses of all
11 registrants, and all persons whose registrations have been
12 suspended, revoked, or denied renewal for cause within the
13 previous calendar year. These rosters shall be available
14 upon written request and payment of the required fee as
15 established by rule.

16 (Source: P.A. 86-615.)

17 (225 ILCS 425/14a) (from Ch. 111, par. 2039a)

18 (Section scheduled to be repealed on January 1, 2016)

19 Sec. 14a. Unlicensed practice; Injunctions. The practice
20 as a collection agency by any person ~~entity~~ not holding a valid
21 and current license under this Act is declared to be inimical
22 to the public welfare, to constitute a public nuisance, and to
23 cause irreparable harm to the public welfare. The Secretary
24 ~~Director~~, the Attorney General, the State's Attorney of any
25 county in the State, or any person may maintain an action in

1 the name of the People of the State of Illinois, and may apply
2 for injunctive relief in any circuit court to enjoin such
3 entity from engaging in such practice. Upon the filing of a
4 verified petition in such court, the court, if satisfied by
5 affidavit or otherwise that such entity has been engaged in
6 such practice without a valid and current license, may enter a
7 temporary restraining order without notice or bond, enjoining
8 the defendant from such further practice. Only the showing of
9 non-licensure ~~nonlicensure~~, by affidavit or otherwise, is
10 necessary in order for a temporary injunction to issue. A copy
11 of the verified complaint shall be served upon the defendant
12 and the proceedings shall thereafter be conducted as in other
13 civil cases except as modified by this Section. If it is
14 established that the defendant has been or is engaged in such
15 unlawful practice, the court may enter an order or judgment
16 perpetually enjoining the defendant from further practice. In
17 all proceedings hereunder, the court, in its discretion, may
18 apportion the costs among the parties interested in the action,
19 including cost of filing the complaint, service of process,
20 witness fees and expenses, court reporter charges and
21 reasonable attorneys' fees. In case of violation of any
22 injunctive order entered under the provisions of this Section,
23 the court may summarily try and punish the offender for
24 contempt of court. Such injunction proceedings shall be in
25 addition to, and not in lieu of, all penalties and other
26 remedies provided in this Act.

1 (Source: P.A. 86-615.)

2 (225 ILCS 425/14b) (from Ch. 111, par. 2039b)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 14b. Penalty of unlawful practice; Second and
5 subsequent offenses. Any entity that practices or offers to
6 practice as a collection agency in this State without being
7 licensed for that purpose, or whose license is ~~has been~~
8 suspended, ~~or~~ revoked, or expired, or that violates any of the
9 provisions of this Act for which no specific penalty has been
10 provided herein, is guilty of a Class A misdemeanor.

11 Any entity that has been previously convicted under any of
12 the provisions of this Act and that subsequently violates any
13 of the provisions of this Act is guilty of a Class 4 felony. In
14 addition, whenever any entity is punished as a subsequent
15 offender under this Section, the Secretary ~~Director~~ shall
16 proceed to obtain a permanent injunction against such entity
17 under Section 14a of this Act.

18 (Source: P.A. 86-615.)

19 (225 ILCS 425/16)

20 (Section scheduled to be repealed on January 1, 2016)

21 Sec. 16. Investigation; notice and hearing. The Department
22 may investigate the actions or qualifications of any applicant
23 or of any person rendering or offering to render collection
24 agency services or any person ~~or persons~~ holding or claiming to

1 hold a license as a collection agency certificate of
2 registration. The Department shall, before refusing to issue or
3 renew, suspending or revoking, suspending, placing on
4 probation, reprimanding, or taking any other disciplinary
5 action under Section 9 of this Act ~~any certificate of~~
6 ~~registration~~, at least 30 days before the date set for the
7 hearing, (i) notify the accused in writing of the charges made
8 and the time and place for the hearing on the charges, (ii) of
9 ~~the charges before the Board~~, direct him or her to file his or
10 her written answer ~~thereto~~ to the charges with the Department
11 under oath ~~Board~~ within 20 days after the service on him or her
12 of the notice, and (iii) inform the accused ~~him or her~~ that if
13 he or she fails to file an answer default will be taken against
14 him or her or ~~and~~ his or her license certificate of
15 ~~registration~~ may be suspended, ~~or~~ revoked, or placed on
16 probation, or other disciplinary action may be taken with
17 regard to the registration, including limiting the scope,
18 nature, or extent of his or her practice, as the Department may
19 consider proper. ~~This written notice may be served by personal~~
20 ~~delivery or certified mail to the respondent at the address of~~
21 ~~his or her last notification to the Department. In case the~~
22 ~~person fails to file an answer after receiving notice, his or~~
23 ~~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 ~~is considered proper, including limiting the scope, nature, or~~

1 ~~extent of the person's practice or the imposition of a fine,~~
2 ~~without a hearing, if the act or acts charged constitute~~
3 ~~sufficient grounds for such action under this Act. The written~~
4 ~~answer shall be served by personal delivery, certified~~
5 ~~delivery, or certified or registered mail to the Department. At~~
6 the time and place fixed in the notice, the Department shall
7 proceed to hear the charges. The parties or their counsel shall
8 be accorded ample opportunity to present any pertinent
9 statements, testimony, evidence, and arguments ~~as may be~~
10 ~~pertinent to the charges or to the defense thereto.~~ The
11 Department may continue the hearing from time to time ~~Board~~
12 ~~shall be notified and may attend.~~ Nothing in this Section shall
13 be construed to require that a hearing be commenced and
14 completed in one day. At the discretion of the Secretary
15 ~~Director~~, after having first received the recommendation of the
16 Board, the accused person's certificate of registration may be
17 suspended or revoked, if the evidence constitutes sufficient
18 grounds for such action under this Act. If the person fails to
19 file an answer after receiving notice, his or her license may,
20 in the discretion of the Department, be suspended, revoked, or
21 placed on probation, or the Department may take whatever
22 disciplinary action it considers proper, including limiting
23 the scope, nature, or extent of the person's practice or the
24 imposition of a fine, without a hearing, if the act or acts
25 charged constitute sufficient grounds for such action under
26 this Act. This written notice may be served by personal

1 delivery or certified mail to the respondent at the address of
2 record.

3 (Source: P.A. 89-387, eff. 1-1-96.)

4 (225 ILCS 425/17)

5 (Section scheduled to be repealed on January 1, 2016)

6 Sec. 17. Record of hearing; transcript. The Department, at
7 its expense, shall preserve a record of all proceedings at the
8 formal hearing of any case. The notice of hearing, complaint,
9 all ~~and~~ other documents in the nature of pleadings, ~~and~~ written
10 motions filed in the proceedings, the transcript of testimony,
11 the report of the Board, and orders of the Department shall be
12 in the record of the proceedings. If the respondent orders from
13 the reporting service and pays for a transcript of the record
14 within the time for filing a motion for rehearing under Section
15 20, the 20 calendar day period within which a motion may be
16 filed shall commence upon the delivery of the transcript to the
17 respondent ~~The Department shall furnish a transcript of the~~
18 ~~record to any person interested in the hearing upon payment of~~
19 ~~the fee required under Section 2105-115 of the Department of~~
20 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

21 (Source: P.A. 91-239, eff. 1-1-00.)

22 (225 ILCS 425/18)

23 (Section scheduled to be repealed on January 1, 2016)

24 Sec. 18. Subpoenas; oaths; attendance of witnesses.

1 (a) The Department has ~~shall have~~ the power to subpoena
2 documents, books, records, or other materials and to bring
3 before it any person and to take testimony either orally or by
4 deposition, or both, with the same fees and mileage and in the
5 same manner as prescribed in civil cases in the courts of this
6 State.

7 (b) The Secretary ~~Director~~, the designated hearing
8 officer, and every member of the Board has ~~shall have~~ power to
9 administer oaths to witnesses at any hearing that the
10 Department is authorized to conduct and any other oaths
11 authorized in any Act administered by the Department.

12 (c) Any circuit court may, upon application of the
13 Department or designee or of the applicant or licensee,
14 ~~registrant, or person holding a certificate of registration~~
15 against whom proceedings under this Act are pending, enter an
16 order requiring the attendance of witnesses and their
17 testimony, and the production of documents, papers, files,
18 books, and records in connection with any hearing or
19 investigations. The court may compel obedience to its order by
20 proceedings for contempt.

21 (Source: P.A. 89-387, eff. 1-1-96.)

22 (225 ILCS 425/19)

23 (Section scheduled to be repealed on January 1, 2016)

24 Sec. 19. Findings and recommendations ~~Board report~~. At the
25 conclusion of the hearing, the Board shall present to the

1 ~~Secretary Director~~ a written report of its findings of fact,
2 conclusions of law, and recommendations. The report shall
3 contain a finding whether or not the accused person violated
4 this Act or the rules adopted under this Act or failed to
5 comply with the conditions required in this Act or those rules.
6 The Board shall specify the nature of the violation or failure
7 to comply and shall make its recommendations to the Secretary
8 ~~Director.~~

9 The report of findings of fact, conclusions of law, and
10 recommendation of the Board shall be the basis for the
11 Department's order for refusing to issue, restore, or renew a
12 license, or otherwise disciplining a licensee, refusal or for
13 the granting of a license certificate of registration. If the
14 ~~Secretary Director~~ disagrees ~~in any regard~~ with the report,
15 findings of fact, conclusions of law, and recommendations
16 ~~report~~ of the Board, the Secretary Director may issue an order
17 in contravention of the Board's recommendations ~~report.~~ ~~The~~
18 ~~Director shall provide a written report to the Board on any~~
19 ~~deviation and shall specify with particularity the reasons for~~
20 ~~that action in the final order.~~ The finding is not admissible
21 in evidence against the person in a criminal prosecution
22 brought for the violation of this Act, but the hearing and
23 finding are ~~is~~ not a bar to a criminal prosecution brought for
24 the violation of this Act.

25 (Source: P.A. 89-387, eff. 1-1-96.)

1 (225 ILCS 425/20)

2 (Section scheduled to be repealed on January 1, 2016)

3 Sec. 20. Board; rehearing ~~Motion for rehearing~~. At the
4 conclusion of the hearing ~~In any hearing involving the~~
5 ~~discipline of a registrant~~, a copy of the Board's report shall
6 be served upon the applicant or licensee ~~respondent~~ by the
7 Department, either personally or as provided in this Act for
8 the service of the notice of hearing. Within 20 calendar days
9 after the service, the applicant or licensee ~~respondent~~ may
10 present to the Department a motion in writing for a rehearing
11 which shall specify the particular grounds for rehearing. The
12 Department may respond to the motion for rehearing within 20
13 days after its service on the Department, and the applicant or
14 licensee may reply within 7 days thereafter. If no motion for
15 rehearing is filed, then upon the expiration of the time
16 specified for filing a motion, or if a motion for rehearing is
17 denied, then upon denial, the Secretary ~~Director~~ may enter an
18 order in accordance with the recommendations of the Board,
19 except as provided for in Section 19. If the applicant or
20 licensee ~~respondent~~ orders a transcript of the record from the
21 reporting service and pays for it within the time for filing a
22 motion for rehearing, the 20 ~~calendar~~ day period within which a
23 motion for rehearing may be filed shall commence upon the
24 delivery of the transcript to the applicant or licensee
25 ~~respondent~~.

26 (Source: P.A. 89-387, eff. 1-1-96.)

1 (225 ILCS 425/21)

2 (Section scheduled to be repealed on January 1, 2016)

3 Sec. 21. ~~Secretary; rehearing~~ Rehearing. Whenever the
4 Secretary ~~Director~~ is not satisfied that substantial justice
5 has been done in the revocation, suspension, or refusal to
6 issue, restore, or renew a license, or other discipline of an
7 applicant or licensee ~~a certificate of registration,~~ the
8 Secretary ~~Director~~ may order a rehearing by the same or other
9 examiners.

10 (Source: P.A. 89-387, eff. 1-1-96.)

11 (225 ILCS 425/22)

12 (Section scheduled to be repealed on January 1, 2016)

13 Sec. 22. Appointment of a hearing ~~Hearing~~ officer. The
14 Secretary has ~~Director shall have~~ the authority to appoint any
15 attorney duly licensed to practice law in the State of Illinois
16 to serve as the hearing officer in any action for refusal to
17 issue, restore, or renew a certificate of registration or to
18 discipline a licensee ~~registrant or person holding a~~
19 ~~certificate of registration~~. The hearing officer shall have
20 full authority to conduct the hearing. A Board member or
21 members may, but are not required to, attend hearings. The
22 hearing officer shall report his or her findings of fact,
23 conclusions of law, and recommendations to the Board ~~and the~~
24 ~~Director~~. The Board shall ~~have 60 calendar days from receipt of~~

1 ~~the report to~~ review the report of the hearing officer and
2 present its findings of fact, conclusions of law, and
3 recommendations to the Secretary and to all parties to the
4 proceeding Director. ~~If the Board fails to present its report~~
5 ~~within the 60 calendar day period, the Director may issue an~~
6 ~~order based on the report of the hearing officer.~~ If the
7 Secretary ~~Director~~ disagrees with the recommendation of the
8 Board or of the hearing officer, the Secretary ~~Director~~ may
9 issue an order in contravention of the recommendation.

10 (Source: P.A. 89-387, eff. 1-1-96.)

11 (225 ILCS 425/23)

12 (Section scheduled to be repealed on January 1, 2016)

13 Sec. 23. Order or ~~+~~ certified copy; prima facie proof. An
14 order or a certified copy thereof ~~of an order~~, over the seal of
15 the Department and purporting to be signed by the Secretary
16 ~~Director~~, shall be prima facie proof that ~~of the following~~:

17 (1) ~~That~~ the signature is the genuine signature of the
18 Secretary; Director.

19 (2) ~~That~~ the Secretary ~~Director~~ is duly appointed and
20 qualified; and ~~-~~

21 (3) ~~That~~ the Board and its ~~the Board~~ members are qualified
22 to act.

23 (Source: P.A. 89-387, eff. 1-1-96.)

24 (225 ILCS 425/24)

1 (Section scheduled to be repealed on January 1, 2016)

2 Sec. 24. Restoration of certificate of registration from
3 discipline. At any time after the successful completion of a
4 term of indefinite probation, suspension or revocation of any
5 certificate of registration, the Department may restore the
6 certificate of registration to the registrant, ~~accused person~~
7 upon the written recommendation of the Board, unless after an
8 investigation and a hearing the Secretary Board determines that
9 restoration is not in the public interest. No person whose
10 certificate of registration or authority has been revoked as
11 authorized in this Act may apply for restoration of that
12 certificate or authority until such time as provided for in the
13 Civil Administrative Code of Illinois.

14 (Source: P.A. 89-387, eff. 1-1-96.)

15 (225 ILCS 425/26)

16 (Section scheduled to be repealed on January 1, 2016)

17 Sec. 26. Administrative review; venue ~~Review Law~~.

18 (a) All final administrative decisions of the Department
19 are subject to judicial review under the Administrative Review
20 Law and its rules. The term "administrative decision" is
21 defined as in Section 3-101 of the Code of Civil Procedure.

22 (b) Proceedings for judicial review shall be commenced in
23 the circuit court of the county in which the party applying for
24 review resides, but if the party is not a resident of Illinois
25 ~~this State~~, the venue shall be in Sangamon County.

1 (Source: P.A. 89-387, eff. 1-1-96.)

2 (225 ILCS 425/27)

3 (Section scheduled to be repealed on January 1, 2016)

4 Sec. 27. Certifications ~~Certification~~ of record; costs
5 ~~receipt~~. The Department shall not be required to certify any
6 record to the court or file any answer in court or otherwise
7 appear in any court in a judicial review proceeding, unless and
8 until ~~there is filed in the court, with the complaint, a~~
9 ~~receipt from~~ the Department has received from the plaintiff
10 ~~acknowledging~~ payment of the costs of furnishing and certifying
11 the record, which costs shall be determined by the Department.
12 Failure on the part of the plaintiff to file a receipt in court
13 shall be grounds for dismissal of the action.

14 (Source: P.A. 89-387, eff. 1-1-96.)

15 (225 ILCS 425/30 new)

16 Sec. 30. Expiration, renewal and restoration of
17 registration. The expiration date and renewal period for each
18 registration shall be set by rule. A collection agency whose
19 registration has expired may reinstate its registration at any
20 time within 5 years after the expiration thereof, by making a
21 renewal application and by paying the required fee.

22 However, any registered collection agency whose
23 certificate of registration has expired while the individual
24 registered or while a shareholder, partner, or member owning

1 50% or more of the interest in the collection agency has
2 expired while he or she was (i) on active duty with the Armed
3 Forces of the United States or called into service or training
4 by the State militia; or (ii) in training or education under
5 the supervision of the United States preliminary to induction
6 into the military service, may have his or her certificate of
7 registration renewed, restored, or reinstated without paying
8 any lapsed renewal fee, restoration fee, or reinstatement fee
9 if, within 2 years after termination of the service, training
10 or education, he or she furnishes the Department with
11 satisfactory evidence of service, training or education and it
12 has been terminated under honorable conditions.

13 Any collection agency whose registration has expired for
14 more than 5 years may have it restored by applying to the
15 Department, paying the required fee, and filing acceptable
16 proof of fitness to have the registration restored as set by
17 rule.

18 (225 ILCS 425/35 new)

19 Sec. 35. Returned checks; fines. Any person who delivers a
20 check or other payment to the Department that is returned to
21 the Department unpaid by the financial institution upon which
22 it is drawn shall pay to the Department, in addition to the
23 amount already owed to the Department, a fine of \$50. The fines
24 imposed by this Section are in addition to any other discipline
25 provided under this Act for unregistered practice or practice

1 on a non-renewed registration. The Department shall notify the
2 entity that payment of fees and fines shall be paid to the
3 Department by certified check or money order within 30 calendar
4 days of the notification. If, after the expiration of 30 days
5 from the date of notification, the person has failed to submit
6 the necessary remittance, the Department shall automatically
7 terminate the registration or deny the application, without
8 hearing. If, after termination or denial, the entity seeks a
9 registration, it shall apply to the Department for restoration
10 or issuance of the registration and pay all fees and fines due
11 to the Department. The Department may establish a fee for the
12 processing of an application for restoration of a registration
13 to pay all expenses of processing this application. The
14 Secretary may waive the fines due under this Section in
15 individual cases where the Secretary finds that the fines would
16 be unreasonable or unnecessarily burdensome.

17 (225 ILCS 425/40 new)

18 Sec. 40. Unregistered practice; cease and desist.
19 Whenever, in the opinion of the Department, a person violates
20 any provision of this Act, the Department may issue a rule to
21 show cause why an order to cease and desist should not be
22 entered against that person. The rule shall clearly set forth
23 the grounds relied upon by the Department and shall allow at
24 least 7 days from the date of the rule to file an answer
25 satisfactory to the Department. Failure to answer to the

1 satisfaction of the Department shall cause an order to cease
2 and desist to be issued.

3 (225 ILCS 425/45 new)

4 Sec. 45. Summary suspension of certificate of
5 registration. The Secretary may summarily suspend the
6 certificate of registration of a certified collection agency
7 without a hearing, simultaneously with the institution of
8 proceedings for a hearing provided for in Section 16 of this
9 Act, if the Secretary finds that evidence in the Secretary's
10 possession indicates that the continuation of practice by a
11 registered collection agency would constitute an imminent
12 danger to the public. In the event that the Secretary summarily
13 suspends the registration of a certified collection agency
14 without a hearing, a hearing must be commenced within 30 days
15 after the suspension has occurred and concluded as
16 expeditiously as practical.

17 (225 ILCS 425/50 new)

18 Sec. 50. Consent order. At any point in the proceedings as
19 provided in Sections 9.5, 11, 14a, 16, and 45, both parties may
20 agree to a negotiated consent order. The consent order shall be
21 final upon signature of the Secretary.

22 (225 ILCS 425/55 new)

23 Sec. 55. Confidentiality. All information collected by the

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

18 (225 ILCS 425/6 rep.)

19 (225 ILCS 425/6a rep.)

20 (225 ILCS 425/10 rep.)

21 (225 ILCS 425/13 rep.)

22 (225 ILCS 425/13.3 rep.)

23 (225 ILCS 425/14 rep.)

24 Section 15. The Collection Agency Act is amended by
25 repealing Sections 6, 6a, 10, 13, 13.3, and 14.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.